

**Models to be provided:**

PUD - sk

zba fee schedule

swampscott vending machines

non-criminal disposition

andover adult

concord lot definitions

Fitchburg parking illustr.

**DRAFT #2**

**JULY 31, 2000**

**SALEM ZONING ORDINANCE**

## **SECTION 1000. PURPOSE AND AUTHORITY**

**1100. PURPOSE.** These regulations are enacted to promote the general welfare of the City of Salem, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the city, to preserve the cultural, historical and agricultural heritage of the community, to increase the amenities of the city, and to reduce the hazard from fire by regulating the location and use of buildings and the area of open space around them, all as authorized by, but not limited to, the provisions of the Zoning Act, G.L. c. 40A, as amended, Section 2A of 1975 Mass. Acts 808, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

**1200. AUTHORITY.** This Zoning Ordinance is enacted in accordance with the provisions of the General Laws, Chapter 40A, and any and all amendments thereto.

**1300. SCOPE.** For these purposes, the construction, repair, alteration, reconstruction, height, number of stories, and size of buildings and structures, the size and width of lots, the percentage of lot area that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land in the City of Salem are regulated as hereinafter provided.

**1400. APPLICABILITY.** All buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and the use of all premises in the City of Salem, shall be in conformity with the provisions of the Zoning Ordinance. No building, structure or land shall be used for any purpose or in any manner other than is expressly permitted within the district in which such building, structure or land is located. Where the application of this Ordinance imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this Ordinance shall control.

**1500. AMENDMENTS.** This Ordinance may from time to time be changed by amendment, addition, or repeal by the City Council in the manner provided in G.L. c. 40A, s.5, and any amendments thereto.

**1600. SEPARABILITY.** The invalidity of any section or provision of this Ordinance shall not invalidate any other section or provision herein.

**SECTION 2000. DISTRICTS**

**2100. ESTABLISHMENT**

**2110. General.** For the purpose of this Ordinance, the City of Salem is divided into the types of zoning districts set forth below:

Residential Conservation	RC
Residential One-family	R1
Residential Two-family	R2
Residential Multi-family	R3
Neighborhood Business	B1
Highway Business	B2
Wholesale and Automotive Business	B4
Industrial	I
Central Development	B5
Business Park	BP

2111. RC Districts. Residential-conservation districts are intended to be areas in which, by reason of poor drainage, periodic flooding, rocky terrain, steep slope, or the practical difficulties of servicing such areas with public water or sewerage, only agricultural and scattered residential uses should be permitted.

2112. R1 Districts. One-family residential districts are intended to be those areas in which spacious neighborhoods suitable for healthy, safe, convenient and comfortable family life is to be promoted and protected.

2113. R2 Districts. Two-family residential districts are intended to be those areas in which buildings are suitable for use by more than one (1) family but are in all other ways similar in character to R1 districts.

2114. R3 Districts. Multifamily residential districts are intended to be those areas whose location is especially convenient to services, facilities, or employment for persons and families desiring apartment accommodations.

2115. B1 Districts. Neighborhood business districts are intended to be those areas containing uses meeting daily shopping needs for the convenience of adjacent residential areas.

2116. B2 Districts. Highway business districts are intended to be those areas providing sites for businesses whose trade is derived from automobile traffic requiring ample on-site parking and direct access from major streets.

2117. B4 Districts. Wholesale and automotive business districts are intended to be those areas which serve the wholesale and automobile business needs related to the central development district.

2118. I Districts. Industrial districts are intended to be those areas highly suitable for industrial use by reason of topography, accessibility and proximity to major transportation systems.

2119. B5 Districts. Central development district is intended to be a composite district of major businesses, residential use, and civic and cultural use.

2119A. Business Park Development District. Business Park Development Districts are intended to be those areas within which clean businesses and industry are developed.

**2200. OVERLAY DISTRICTS.** The following overlay districts are also hereby created:

Wetlands and Flood Hazard District. See Section 8100.  
Entrance Corridor Overlay District. See Section 8200.

**2300. MAP**

**2310. Establishment.** The boundaries of these districts are defined and set forth on the map entitled, "Zoning Map, City of Salem," adopted August 27, 1965 and subsequently amended by vote

of the City Council. This map is on file with the City Clerk. The zoning map, with all explanatory matter thereon, is hereby made a part of this Ordinance. The boundaries of all land use zoning districts adjoining tidal waters shall extend to the low water mark as defined in regulations promulgated pursuant to G.L. c. 91 by the Massachusetts Department of Environmental Protection.

**2320. Interpretation of District Boundaries.** Where uncertainties exist as to the boundaries of districts as shown on the official zoning maps the following shall apply:

2321. Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed as following such centerlines.

2322. Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines.

2323. Boundaries indicated as approximately following the city limits shall be construed as following the city limits.

2324. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks, or track, of said railroad line.

2325. Boundaries indicated as following shorelines shall be construed as following such shorelines at mean low water level.

2326. Distances not specifically indicated on the zoning map shall be determined by the scale shown on the zoning map. In case of dispute of measurement, the boundary lines shall be determined by the current official assessor's plan.

2327. All islands within the city limits of Salem, including, but not limited to, the islands known as Great Misery, Little Misery, Baker's, North and South

Gooseberry's, Eagle, Cat, Tinker's, Coney, Great Haste, Jeggle, and the Marblehead Rock shall be construed as being within the RC District, whether or not any such islands are shown or designated on a zoning map.

2328. Where physical or cultural features existing on the ground are at variance with those shown on the official map, or in other circumstances not covered by the above subsections, the board of appeals shall interpret the district boundaries.

## **3000. USE REGULATIONS**

**3100. PRINCIPAL USES.** No land shall be used and no structure shall be erected or used except as set forth in the following Table of Use Regulations, including the notes to the Schedule, or as otherwise set forth herein, or as exempted by General Laws. Any building or use of premises not herein expressly permitted is hereby prohibited. Not more than one principal use shall be allowed on any lot, except as otherwise may be provided herein.

**3110. Symbols.** Symbols employed in the Table of Use Regulations shall mean the following:

- Y - A permitted use.
- N - An excluded or prohibited use.
- PB - A use authorized under special permit from the Planning Board as provided under Section 9300.
- BA - A use authorized under special permit from the Board of Appeals as provided under Section 9300.

**3120. Applicability.** When an activity might be classified under more than one of the following uses, the more specific classification shall govern; if equally specific, the more restrictive shall govern.

**3130. Table of Use Regulations.** See Appendix A.

## **3200. ACCESSORY BUILDINGS AND USES**

**3210. Nonresidential Accessory Uses.** Any use permitted as a principal use is also permitted as an accessory use provided such use is customarily incidental to the main or principal building or use of the land. Any use authorized as a principal use by special permit may also be authorized as an accessory use by special permit provided such use is customarily incidental to the main or principal building or use of the land. Any use not

allowed in the district as a principal use is also prohibited as an accessory use. Accessory uses are permitted only in accordance with lawfully existing principal uses. In all instances where site plan review and approval is required for a principal use, the addition of any new accessory use to the principal use, where such addition exceeds the thresholds established in Section 9400, shall also require site plan review and approval.

**3220. Permitted Accessory Uses.** The following accessory uses are specifically permitted as of right or by special permit:



<b>ACCESSORY USE</b>	<b>DISTRICTS</b>	<b>STATUS</b>	<b>SECTION</b>
Major recreational equipment	All	As of right	3221
Small and large family day care homes	All	Special Permit	3222
Boarders in single-family dwelling	R2	As of right	3233
Private garages	RC, R1, R2, R3	As of right	3224
Historic carriage house	RC, R1, R2	As of right	3225
Adult day care	All	Special Permit	3226

3221. Major Recreational Equipment. No major recreational equipment shall be stored on any lot in a residential district as an accessory use other than in a carport or enclosed building or behind the front building line of the principal building, and not within five feet of any side or rear property line; provided, however, that such equipment may be parked anywhere on premises in a residential district for a period not to exceed seventy-two (72) hours. No such equipment shall be used for living or housekeeping purposes when stored in a residential district, or in any location not approved for such use. All equipment which does not conform to these regulations shall be considered nonconforming. A boat or trailer higher than eight feet as measured from the average mean grade and stored within a required yard shall require a special permit from the Board of Appeals.

3222. Family Day Care Homes. Small family day care homes, with not more than six nonresident children served on the premises, and large family day care homes registered with and licensed by the Commonwealth of Massachusetts Office of

Children are allowed in all districts only upon the issuance of a special permit by the Board of Appeals.

3223. Boarders in Detached Single-Family Dwelling. The renting of rooms and/or furnishing of board to more than one person in a detached single-family dwelling by the owner/occupant thereof shall be a permitted accessory use in the R2 District only.

3224. Private garages. Private garages and other accessory uses and buildings are allowed, provided that such uses are clearly incidental to the principal use. All the buildings on the lot shall not occupy a greater percentage of the lot area than set forth in Appendix B.

3225. Historic Carriage House. A historic carriage house may be used as a single-family dwelling as an accessory use to a principal dwelling on the same lot, provided that parking requirements are met and upon the condition that there shall be no change to the exterior of the historic carriage house unless approved by the Salem Historical Commission.

3226. Adult day care homes are allowed as an accessory use by special permit from the Board of Appeals in all districts.

**3230. Prohibited Accessory Uses.** Where attached to a principal residential use, the following are prohibited:

3231. Commercial kennels.

3232. Contractor's yard for the storage of building materials, and equipment; provided, however, that contractor's may have an office as an accessory use to the home.

3233. The overnight parking of commercial vehicles over 10,000 gvw.

3234. The storage or maintenance of commercial landscaping equipment, materials, and supplies.

3235. Commercial auto or boat repair or service.

**3300. HOME OCCUPATIONS**

**3310. Home Occupation - As of Right.** A home occupation may be allowed as of right, provided that it:

3311. is conducted solely within a dwelling and solely by the person(s) occupying the dwelling as a primary residence;

3312. is clearly incidental and secondary to the use of the premises for residential purposes;

3313. does not produce offensive noise, vibration, smoke, dust, odors, heat, lighting, electrical interference, radioactive emission or environmental pollution;

3314. does not utilize exterior storage of material or equipment (including the parking of commercial vehicles over 10,000 gvw);

3315. does not exhibit any exterior indication, including signs, of its presence or any variation from residential appearance;

3316. does not produce any customer, pupil, or client vehicle trips to the occupation site and has no nonresident employees;

3317. is registered as a business with the City Clerk.

**3320. Home Occupation - By Special Permit.** A home occupation may be allowed by special permit issued by the Board of Appeals, provided that it:

3321. fully complies with Sections 3312, 3313, 3314, and 3317, above.

3322. is conducted within a dwelling solely by the person(s) occupying the dwelling as a primary residence and, in addition to the residents of the premises, by not more than one additional employee;

3323. does not exhibit any exterior indication of its presence, or any variation from residential appearance, except for a sign or name plate in compliance with Section 5300;

3324. a special permit for such use is granted by the Board of Appeals, subject to conditions including, but not limited to, restriction of hours of operation, maximum floor area, off-street parking, and maximum number of daily customer vehicle trips. Such special permit shall be limited to five years, or the transfer of the property, whichever first occurs.

#### **3400. NONCONFORMING USES AND STRUCTURES**

**3410. Applicability.** This Zoning Ordinance shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, s. 5 at which this Zoning Ordinance, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

**3420. Nonconforming Uses.** The Board of Appeals may grant a special permit to change a nonconforming use in accordance with this section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. The following types of changes to nonconforming uses may be considered by the Board of Appeals:

3421. Change or substantial extension of the use;

3422. [reserved]

**3430. Nonconforming Structures.** The Board of Appeals may grant a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered by the Board of Appeals:

3431. Reconstructed, extended or structurally changed;

3432. Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent;

**3440. Variance Required.** The reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same nonconforming distance within a required yard, shall require the issuance of a variance from the Board of Appeals; provided, however, that this provision shall not apply to nonconforming single and two family residential structures, which shall be governed by Section 3450, below.

**3450. Nonconforming Single and Two Family Residential Structures.** Nonconforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed upon the issuance of a building permit after a determination by the Building Commissioner that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure. The following circumstances shall not be deemed to increase the nonconforming nature of said structure:

3451. alteration to a structure which complies with all current setback, yard, building coverage, and building height requirements but is located on a lot with

insufficient area, where the alteration will also comply with all of said current requirements.

3452. alteration to a structure which complies with all current setback, yard, building coverage, and building height requirements but is located on a lot with insufficient frontage, where the alteration will also comply with all of said current requirements.

3453. alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements; the provisions of this subsection shall apply regardless of whether the lot complies with current area and frontage requirements.

3454. alteration to the side or face of a structure which encroaches upon a required yard or setback area, where the alteration will not encroach upon such area to a distance greater than the existing structure; the provisions of this subsection shall apply regardless of whether the lot complies with current area and frontage requirements.

3455. alteration to a nonconforming structure which will not increase the footprint of the existing structure provided that existing height restrictions shall not be exceeded.

In the event that the Building Commissioner determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change, the Board of Appeals may, by special permit, allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

**3460. Abandonment or Non-Use.** A nonconforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this Zoning Ordinance.

**3470. Reconstruction after Catastrophe or Demolition.** A nonconforming structure may be reconstructed after a catastrophe or after demolition in accordance with the following provisions:

3471. Reconstruction of said premises shall commence within two years after such catastrophe or demolition.

3472. Building(s) as reconstructed shall be located on the same footprint as the original nonconforming structure, shall be only as great in volume or area as the original nonconforming structure, and shall meet all applicable requirements for yards, setback, and height.

3473. In the event that the proposed reconstruction would (a) cause the structure to exceed the volume or area of the original nonconforming structure or (b) exceed applicable requirements for yards, setback, and/or height or (c) cause the structure to be located other than on the original footprint, a special permit shall be required from the Board of Appeals prior to such demolition.

**3480. Reversion to Nonconformity.** No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

## **4000. DIMENSIONAL REGULATIONS**

**4100. GENERAL.** No structure shall be erected or used, premises used, or lot changed in size or shape except in conformity with the requirements of this section, unless exempted by this Ordinance or by statute.

**4110. One Structure per Lot.** Except as otherwise provided herein, not more than one principal structure may be placed on any lot.

**4120. Yards.** No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purposes of complying with this ordinance shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.

**4130. Reduction in Dimension.** No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

**4140. Table of Dimensional Requirements.** See Appendix B. In interpreting the tables in Appendix B, the following provisions shall apply:

4141. The minimum front yard depth required shall be measured from the right-of-way line where a plan of the right-of-way is on file with the registry of deeds, or in the absence of such a plan, from a line thirty-five (35) feet from and parallel with the centerline of the traveled way to the front building line.

4142. The minimum side yard width required shall be measured from the side lot line to the side building line, and the minimum rear yard depth required shall be measured from the rear lot line to the rear building line.



4143. On a corner lot, the minimum front yard depth, rather than the minimum side yard width, shall be applied to determine the setback of any building from lot lines abutting any public way.

4144. The minimum lot width required shall be measured at the rear of the required front yard depth and on a line parallel to the right-of-way line where a plan of the right-of-way is on file with the registry of deeds or, in the absence of such a plan, from a line twenty-five (25) feet from and parallel with the centerline of the traveled way.

4145. The building height shall be measured from the average elevation of the proposed finished grade at the front line of the building to the highest point of the roof for flat roofs, to the deck line for mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs. Fences and walls shall be measured from the Finished grade vertically to the highest point

4146. The provisions of Appendix B with respect to area, lot width, lot coverage, yards and height of buildings shall not apply to the islands within the municipal boundaries of Salem as listed herein.

#### **4200. SPECIAL DIMENSIONAL REGULATIONS**

**4210. Split Lots.** Where a district boundary line divides a lot of record at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion, provided that the lot has frontage on a street in the less restricted district.

**4220. Multiple Principal Structures.** Except in the residential districts, more than one principal nonresidential structure may be erected on a lot subject to the following conditions:

4221. No principal building shall be located in relation to another principal building on the same lot, or on an adjacent lot, so as to cause danger from fire;

4222. All principal buildings on the lot shall be served by access ways suitable for fire, police, and emergency vehicles;

4223. All of the multiple principal buildings on the same lot shall be accessible via pedestrian walkways connected to the required parking for the premises, public sidewalks, and to each principal building.

**4230. Visibility at Intersections.** In order to provide unobstructed visibility at intersections, no sign, fence, wall, hedge or other structure or planting of more than three (3) feet above the established street grade shall be erected, placed or maintained within the triangular area formed by the intersecting street lines and a straight line joining said street lines at points which are twenty-five (25) feet distant from the point of intersection, measured along said street lines.

**4240. Roofing Over or Enclosing Existing Porches.** In certain instances, the inspector of buildings may issue building permits to repair, rebuild, roof over or enclose existing porches, terraces, outside stairs, and similar appurtenances to dwellings, regardless of the setback requirements as listed in Appendix B, provided the following conditions are met:

4241. The appurtenant structure to be enclosed and/or roofed over existed before August 27, 1965.

4242. No portion of the roofed-over or enclosed structure shall be nearer than five (5) feet to any side or rear lot line. There shall be no restriction insofar as front yard setbacks are required, provided, however, the roof or enclosure does not extend beyond the original structure,

4243. The roofing over and/or enclosing of the structure, in the opinion of the building inspector with the cooperation of the chief of the fire department and the

board of health, will not be a hazard to the safety or well being of the general neighborhood.

#### **4300. ACCESSORY STRUCTURES**

**4310. General.** No accessory building or structure, except a permitted sign, shall be located within a required front yard area. A detached accessory building may be located in the rear yard areas and on the same lot as a principal building, provided that not more than twenty-five (25) percent of the required yard area shall be so occupied, and further provided that an accessory building shall not be located nearer than ten (10) feet from the principal building and at least five (5) feet from any side or rear lot line. An accessory building attached to its principal building or within ten (10) feet of it shall be considered an integral part thereof and as such shall be subject to the front, side, and rear yard requirements applicable to the principal building. An accessory building shall not exceed 20 feet in height above the average grade level around the structure.

**4320. Permitted Accessory Structures.** Accessory buildings and structures, such as garages and tool sheds, shall be subject to the following regulations:

4321. No unattached accessory building or structure shall be located nearer than five (5) feet to any side lot line (side lots in this instance refer to a projected line starting from the front lot line, terminating at the rear lot line parallel five (5) feet from the side) or five (5) feet from the rear lot line.

4322. The building area of such building or structure, excluding garages, shall not exceed one (1) percent of the lot area or one hundred twenty (120) square feet, whichever is greater, and shall not be located closer than ten (10) feet to any other building on the same lot or any abutting lot.

**4330. Swimming Pools.** Pools used for swimming or bathing shall be in conformity with the requirements of this ordinance; provided, however, these regulations shall not be applicable to any such pool less than twenty-four (24) inches deep or having a surface area less than two hundred fifty (250) square feet. For purposes of this ordinance, pools are classified as private swimming pools or public swimming pools.

4331. Classification of Pools. Any pool intended to be used primarily for swimming for the use only of the occupants of a single or two-family dwelling and their guests shall be designated as a private pool, primarily for swimming. Any pool which is not a private pool as defined above shall be classified as a public pool.

4332. Permits. No swimming pool subject to the provisions of this ordinance shall be constructed, installed, enlarged or altered until a swimming pool permit has been obtained from the inspector of buildings.

- a. The application for the permit for a pool shall be accompanied by two (2) copies of a plot plan showing the location of the pool and its relation to property lines and other structures upon the lot and names of abutters of adjoining property, one (1) copy of which shall be filed with the inspector of buildings.
- b. The application for the permit shall be accompanied by two (2) copies of the specifications and plans drawn to scale. The plans shall accurately show dimensions and construction of the pool, including vertical elevations and sections showing depth in sufficient clarity to clearly indicate the nature of the structure, and show all details necessary for conformance with the provisions of this ordinance.
- c. Any inground pool shall have plans and specifications submitted with the seal and signature of a qualified registered professional engineer. After the construction, installation, enlargement or alteration of a swimming pool subject to the provisions of this

ordinance and before the installation of the required wiring for such a pool, a certificate of compliance shall be obtained from the inspector of buildings.

- d. Before such a certificate of compliance can be obtained, one (1) copy of a new plot plan showing the location of the pool and its relation to property lines, required fencing and other structures shall be submitted to the inspector of buildings to show that the actual siting of the installed pool conforms to the locational requirements of this ordinance.
- e. Upon receipt of the certificate of compliance, a wiring permit shall be obtained by a licensed electrician for the required wiring installation of a pool.

4333. Construction. All pools shall be subject to the provisions of this ordinance and shall be constructed in a manner which is in conformity with the Massachusetts State Building Code, Section 422.0 as amended. No inground pool shall be located any less than ten (10) feet from any building foundation.

4334. Accessory Structures. All accessory structures, installations and equipment, such as showers, dressing rooms, equipment houses or other buildings, shall comply with all applicable requirements of the Salem Zoning Ordinance.

4335. Safety Precautions. Pools shall be surrounded on all sides with a permanent wall or fence at least four (4) feet high and located no further than twenty-five (25) feet from any side of the pool. Fences shall be constructed of pickets, or stockade or chain-link type material. Rail fences shall not be permitted. The fence shall have only one (1) opening, three (3) feet maximum in width, with a locking and closing device so as to keep the gate shut at all times.

4336. Location. No side of any pool shall be located less than six (6) feet from any rear or side property line, unless a special permit is obtained from the board of appeals. Pools shall conform to front yard setbacks as required for dwellings in Article VI of this ordinance.

4337. Interpretation. Swimming pools shall not be considered structures for purposes of the City of Salem Zoning Ordinance, and Section 4330 shall regulate the construction, installation, enlargement and alteration of all swimming pools within the City of Salem, independent of all other regulations contained in the City of Salem Zoning Ordinance.

**4340. Driveways.** Driveways shall be considered a structure for the purposes of this Ordinance, and shall not be located, if paved, within two (2) feet of any side or rear lot line.

## SECTION 5000. GENERAL REGULATIONS

### 5100. OFF-STREET PARKING

**5110. General.** Off-street parking spaces shall be provided and maintained by the owner of the property for each building or use which, after the effective date of this ordinance, is erected, enlarged or altered, according to the regulations set out in this section.

5111. All parking spaces required by this ordinance shall be on the same lot as the building or use which they are intended to serve, except that the board of appeals may permit the parking spaces to be provided within four hundred (400) feet of the building or use intended to be served, if the board determines that it is impractical to provide parking on the same lot with the building. If a separate lot is used for parking, the ownership of the lot must, for all times, be held by the same ownership as the lot on which the building is erected. If the parking lot ownership is separated from the ownership of the building, this shall be deemed a violation, and the building inspector shall void the certificate of occupancy.

5112. Notwithstanding any other provisions of this ordinance, common parking areas may be permitted for the purpose of servicing two (2) or more principal uses on the same or separate lots, provided that:

- a. Evidence is submitted that parking is available within four hundred (400) feet of the premises, which lot satisfies the requirements of this ordinance and has excess capacity during all or part of the day, which excess capacity shall be demonstrated by competent parking survey conducted by a traffic engineer registered in the Commonwealth of Massachusetts.
- b. A contract, agreement, or suitable legal instrument acceptable to legal counsel, shall be filed with the application for building permit, occupancy permit, or

special permit for exception which shall specify the location of all spaces to be jointly used, the number of such spaces, the hours during the day that such parking shall be available, and the duration or limit, if any on such parking.

- c. Any reduction in area required for parking because of these joint use provisions may be required as reserved landscaped open space; such area shall be computed at the rate of four hundred (400) square feet per parking space.
- d. Nothing in this section shall relieve the owner from providing parking facilities in accordance with this ordinance if subsequently the joint use of parking facilities shall terminate.

5113. Special Permit. Any parking or loading requirement set forth herein may be reduced upon the issuance of a special permit by the Planning Board if the Board finds that the reduction is not inconsistent with public health and safety, or that the reduction promotes a public benefit. Such cases might include:

- a. Use of a common parking lot for separate uses having peak demands occurring at different times;
- b. Age or other characteristics of occupants of the facility requiring parking which reduces auto usage;
- c. Peculiarities of the use which make usual measures of demand invalid;
- d. Availability of on-street parking or parking at nearby municipally owned facilities.
- e. Where a special permit is granted, a reserve area, to be maintained indefinitely as landscaped open space, may be required sufficient to accommodate the difference between the spaces otherwise required and the spaces reduced by special permit. The



parking/site plan shall show (in dotted outline) how the reserve area would be laid out in to provide the otherwise required number of spaces.

5114. Required parking spaces shall not be reduced or encroached upon in any manner unless a change in use occurs which permits a change in the amount of parking area required.

5115. No part of an off-street parking area required by this ordinance for any building or use shall be included as part of an off-street parking area similarly required for another building or use unless the type of buildings or uses indicates that the usage of such parking area would not occur simultaneously, as determined by the board of appeals.

**5120. Design of Off-Street Parking Facilities.**

5121. Parking facilities shall be occupied only by passenger cars and commercial vehicles not exceeding nine (9) feet in width and twenty (20) feet in length.

5122. The minimum dimensions of stalls and aisles shall be as follows:

- a. Stall width shall be at least nine (9) feet.
- b. Stall depth shall be at least twenty (20) feet for all angle parking and twenty-two (22) feet for parallel parking, Such dimensions may include no more than two (2) feet of any landscaped setback area adjacent to the front or rear of a stall and used for bumper overhang.
- c. Minimum width of aisles providing access to stalls for one-way traffic only, varying with the angle of parking, shall be:

<i>Angle of Parking</i>	<i>Minimum Aisle Width</i>
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<i>(degrees)</i>	<i>(feet)</i>
Parallel	12
30	11
45	13
60	18
90	20

d. Minimum width of aisles providing access to stalls for two-way traffic shall be twenty-four (24) feet.

5123. Parking facilities shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without requiring the moving of any other motor vehicle.

5124. The widths of entrance and exit drives shall be:

- a. A minimum of twelve (12) feet for one-way use only;
- b. A minimum of twenty (20) feet for two-way use, except that driveways providing access primarily for overnight parking, with incidental daytime use, may be a minimum of twelve (12) feet wide; and
- c. A maximum of twenty (20) feet at the street lot line in residence districts and thirty (30) feet in business and industrial districts.

5125. Setbacks for parking areas shall be provided as follows:

- a. In all districts parking stalls in parking lots shall be set back from the street lot line to whatever extent may be necessary in the specific situation, as determined by the building inspector, to avoid the probability of cars backing or otherwise maneuvering on the sidewalk upon entering or leaving the stalls. In no case shall parking lots be designed to require or encourage cars to back into a public or private way in order to leave the lot.

b. The surfaced area of a parking lot and all entrance and exit drives shall be set back a minimum of two (2) feet from all lot lines, except where an access driveway crosses the street lot line.

5126. Parking lots, loading areas, and service areas shall be screened from view, to the extent feasible, from all adjacent residentially zoned properties, by the use of planted areas, berms, natural contours, fences or a combination of the above.

5127. Buffer strips between parking lots and rear or side lot lines shall meet the following specifications:

Number of Spaces in Lot	Depth of Buffer Strip
Up to 10	10 feet
11-24	10 feet plus one foot for each space in excess of 10 spaces
25 or more	25 feet

5128. The requirements set forth in Section 5128 may be reduced by special permit issued by the Planning Board upon a finding that such reduction will not detract from the objectives of this Section.

5129. Any light used to illuminate said parking area shall be so arranged as to reflect light away from adjoining premises and streets.

**5130. Number of Parking Spaces.** Unless varied by special permit, the following numbers of off-street parking spaces shall be the minimum required for the uses indicated. Each parking area shall contain not less than three hundred (300) square feet of gross area for each vehicle, including necessary aisles and driveways. A driveway may be considered a parking space for a dwelling, provided that each vehicle has direct access to a street or public way. Notwithstanding any restrictions in this section, no area within five (5) feet of the street line, including any driveway, shall be considered as a parking space in RC, R1, R2 and R3 Districts.

**5140. Table of Parking Requirements.** See Appendix C.

**5150. Parking Requirements in the B5 District.** The parking requirements for the B5 District shall be as follows:

5151. Nonresidential uses in the B5 District shall not be required to provide off-street parking since the community will accept the responsibility for nonresidential parking in this district.

5152. New residential dwelling uses in the B5 District shall provide parking in accordance with the following schedule:

- a. Provisions shall be made for not less than one (1) parking space per dwelling unit for existing buildings and one and one-half (1 1/2) parking spaces per dwelling unit for new construction.
- b. The parking requirements for rehabilitated buildings may be accommodated by either one (1) or a combination of on-site parking and/or parking at municipal or other parking facilities in the vicinity of the proposed use.
- c. The parking requirements for new construction shall be accommodated by on-site parking.
- d. All land parcels along the north bank of the North River, specifically parcels 400, 401, 402, 403, 404, 405, 406 and 407 as described on Assessor's Plate 26, shall be required to provide one and one-half (1 1/2) parking spaces per unit. Such spaces shall be onsite. This provision shall apply notwithstanding all other provisions of subsection g herein.
- e. All municipal or other parking facilities which are used to satisfy the parking requirement must meet the following criteria: The parking facility must be less than one thousand (1,000) feet from the proposed development, the distance to be measured in a straight

line from the two (2) closest points between the proposed use and the parking facility.

- f. If using a municipal facility, the owner must purchase parking stickers to satisfy the parking requirement,
- g. In contrast to all other defined housing, types built under the jurisdiction of the Salem Housing Authority for elderly and/or handicapped persons shall require one-third parking space per dwelling unit.

**5160. Parking Lots for Ten or More Vehicles.** After the effective date of this ordinance, any parcel of land which is developed as a parking area for ten (10) or more vehicles or as a drive-in business or automobile, trailer or boat sales or service establishment shall be developed as follows, subject to the approval of the plans therefor by the city engineer and the Planning Board.

5161. Such area, where subject to wheeled traffic, shall be treated with bituminous concrete or equivalent surfacing and shall have appropriate bumper or wheel guards where needed.

5162. Parking areas shall contain 150 square feet of planted areas for every 1000 square feet of parking proposed, including aisles, appropriately situated within the parking area. Such planted area shall contain an appropriate mix of shade trees and other plants.

**5200. OFF-STREET LOADING**

**5210. General.** Off-street loading spaces or loading areas shall be provided and maintained by the owner of the property for each nonresidential building or use which, after the effective date of this ordinance, is erected, enlarged or altered, according to the following regulations.

**5220. Same Lot.** All loading spaces or loading areas required by this ordinance shall be on the same lot as the building or use which they are intended to serve, and in no case shall any

required loading area be part of an area used to satisfy the off-street parking requirements of this ordinance.

**5230. No Reduction.** Required loading spaces or loading areas shall not be reduced or encroached upon in any manner unless a change in use occurs which permits a change in the amount of loading area required.

**5240. Shared Loading.** No part of an off-street loading area required by this ordinance for any nonresidential building or use shall be included as part of an off-street loading area similarly required for another building or use, unless the type of buildings or uses indicates that the usage of such loading area would not occur simultaneously, as determined by the board of appeals.

**5250. Number of Loading Spaces.** The following number of off-street loading spaces shall be the minimum required for the uses indicated. Each loading bay shall contain not less than three hundred (300) square feet of area, not including necessary driveways, except for tractor trailer loading bays which shall contain not less than seven hundred eighty (780) square feet of area, not including necessary driveways, and shall be at least twelve feet in width and sixty-five feet in length. Each loading bay shall have not less than fourteen (14) feet of overhead clearance.

NUMBER OF LOADING BAYS  
REQUIRED FOR NEW STRUCTURES

Gross Floor Area of structures  
(in thousands of square feet)

USES	2-15	15-50	50-100	100-150	150-300	OVER 300*
Retail trade	-	-	-	-	-	-
Wholesale and storage	-	-	-	-	-	-
Industry	1	2	3	4	5	1
Communications and utilities	-	-	-	-	-	-
Consumer service	-	-	-	-	-	-
Office building	-	-	-	-	-	-
Hotel and dormitory	1	1	2	3	4	1
Institution	-	-	-	-	-	-
Recreation	-	-	-	-	-	-
Education	-	-	-	-	-	-

\* for each additional 150 or fraction thereof.

**5260. B5 District.** New nonresidential uses in the B5 District shall not be subject to the above schedule of requirements but shall be subject to the following schedule:

GROSS FLOOR AREA OF STRUCTURES (in square feet)	REQUIRED LOADING BAYS
0-20,000	None. Loading facilities and service areas for these uses shall be publicly provided through incorporation of service access privileges in public open spaces and rights-of-way, provided they do not adversely affect desired

	vehicular or pedestrian traffic flows.
20,001-40,000	1
Each additional 40,000 or fraction thereof	1

**5270. Location.** No loading dock or bay shall be located within twenty (20) feet of the boundary of any residential district.

**5300. SIGNS**

For regulations on signs, refer to the Salem Sign Ordinance.

**5400. GENERAL LANDSCAPING REQUIREMENTS**

**5410. Purpose.** This section is designed to accomplish the following objectives: to provide a suitable boundary or buffer between residential uses and districts and nearby nonresidential uses; to define the street edge and provide visual connection between nonresidential uses of different architectural styles; to separate different and otherwise incompatible land uses from each other in order to partially or completely reduce potential nuisances such as dirt, dust, litter, noise, glare from motor vehicle headlights, intrusion from artificial light (including ambient glare), or view of signs, unsightly buildings or parking lots; to provide visual relief and a source of shade in parking lots and other areas, and protection from wind in open areas; to preserve or improve the visual and environmental character of the city, as generally viewed from residential or publicly accessible locations; and to offer property owners protection against diminution of property values due to adjacent nonresidential use.

**5420. Applicability.** The requirements of this section shall apply to any nonresidential use and to multifamily dwellings;

**5430. Landscaping Requirements for Property Lines.** Property line(s) with residential uses or districts shall be screened from nonresidential uses by means of plantings or maintenance of trees of a species common to the area and appropriate for screening, spaced to minimize visual intrusion, and providing an



opaque year-round visual buffer between uses; provided, however, that these requirements shall apply in the B5 District only at or along the district boundary with adjacent residential districts. Such plantings shall be provided and maintained by the owner of the property used for nonresidential purposes. No part of any building or structure or paved space intended for or used a parking area may be located within the buffer area. Planted buffer areas along property lines with residential districts or uses shall be of the following minimum depth in each district, which may be reduced by special permit issued by the Planning Board upon a finding that such reduction will not detract from the objectives of this Section:

DISTRICT	B1	B2	B4	B5	I	BP
	10	10	10	10	20	75

**5440. Landscaping Requirements for Street Frontage of Nonresidential Uses.** In all nonresidential districts except the B5 District, a landscaped buffer area, except for approved access ways, at least twenty feet in width as measured from the layout of the roadway providing frontage, shall be established. The buffer area shall be planted with grass, medium height shrubs, and shade trees. Shade trees shall be planted at least every 35 feet along the road frontage.

**5450. Planted Area Requirements.** Planted areas shall contain an appropriate mix of the following types of plants. Plant species shall be appropriate to proposed use, siting, soils, and other environmental conditions. Where the Planning Board determines that the planting of trees is impractical, the permit applicant may substitute shrubbery for trees.

5451. Shrubs and hedges shall be at least 2.5 feet in height at the time of planting, and have a spread of at least 18 inches.

5452. Grass is preferable to mulch where practical.

5453. Existing trees with a caliper of six inches (6") or more shall be preserved wherever feasible.

5454. Deciduous trees shall be at least two (2") inches in caliper as measured six (6") inches above the root ball at time of planting. Deciduous trees shall be expected to reach a height of 20 feet within ten years after planting. Evergreens shall be a minimum of eight (8') feet in height at the time of planting.

**5460. Coordination with Site Plan Approval.** The Planning Board shall require a landscaping plan as part of the overall site plan for the premises. Such landscaping plan shall be at a scale sufficient to determine compliance with the specifications set forth in this Section.

**5470. Maintenance of Landscaped Areas.** The owner of the property used for nonresidential purposes shall be responsible for the maintenance, repair and replacement of all landscaping materials installed in accordance with this section and shall have a continuing obligation to comply with the provisions set forth herein. All plant materials required by this chapter shall be maintained in a healthful condition. Dead limbs, refuse and debris shall be promptly removed. Dead plantings shall be replaced with new live plantings at the earliest appropriate season. Bark mulch and nonplant ground surface materials shall be maintained so as to control weed growth.

**5500. ENVIRONMENTAL PERFORMANCE STANDARDS**

**5510. General.** No activity shall be permitted in any district unless it shall be in conformity with the standards for environmental protection included herein. The Building Commissioner may require an applicant for a building or occupancy permit to supply, at his expense, such technical evidence as is necessary in support of the application, and may, in connection therewith, and at the applicant's expense, obtain expert advice as necessary to review the plans and proposals of the applicant. After a permit is issued in accordance with this section, continuing compliance is required. When the Building Commissioner suspects a subsequent violation he may, as necessary obtain expert advice, which if the violation is established, shall be paid for by the violator, otherwise, by the city. The following standards are hereby established.

**5520. Noise.** No use shall be permitted within the city which, by reason of excessive noise generated therefrom, would cause nuisance or hazard to persons or property, as set forth in 310 CMR 7.01.

**5530. Solid Waste Storage.** Any accessory receptacle or structure with holding capacity of at least one hundred (100) cubic feet for temporary storage or solid or liquid waste materials, including garbage, rubbish, junk, discarded bulk items and similar waste items shall be located not less than ten (10) feet from any structure and shall be screened from all adjacent premises and streets from which it would otherwise be visible in accordance with Section 5400 of this ordinance. Screening materials will not be attached to any structure.

**5540. Miscellaneous Standards.**

5541. Outdoor lighting, including lighting on the exterior of a building or lighting in parking areas, shall be arranged to minimize glare and light spilling over to neighboring properties.

5542. Cinders, dust, fumes, gases, odors, smoke, radiation, refuse or other waste materials shall be effectively confined to the premises and treated or disposed of in accordance with state, federal, and city laws and regulations.

5543. No process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in excess of ten (10) percent in line voltage off the premises.

5544. All activities involving, and all storage of, inflammable and explosive materials shall be provided with adequate safety devices against hazards from fire and explosion, and with adequate fire fighting and fire suppression equipment standard in this industry. Burning of waste materials in the open contrary to state law is prohibited.

5545. All materials which may be edible by or attractive to rodents or insects shall, when stored in or outdoors, be stored in tightly closed containers.

**5560. Erosion Control.** Site design, materials, and construction processes shall be designed to avoid erosion damage, sedimentation, or uncontrolled surface water runoff by conformance with the following:

5561. Grading or construction which will result in final slopes of 15% or greater on 50% or more of lot area, or on 30,000 square feet or more on a single lot, even if less than half the lot area, shall be allowed only under special permit from the Planning Board, which shall be granted only upon demonstration that adequate provisions have been made to protect against erosion, soil instability, uncontrolled surface water runoff, or other environmental degradation. Applications and plans for such special permits shall be referred to the Conservation Commission for its advisory review.

5562. All such slopes exceeding 15% which result from site grading or construction activities shall either be covered with topsoil to a depth of 4 inches and planted with vegetative cover sufficient to prevent erosion or be retained by a wall constructed of masonry, reinforced concrete or treated pile or timber.

5563. No area or areas totalling 2 acres or more on any parcel or contiguous parcels in the same ownership shall have existing vegetation clear-stripped or be filled 6 inches or more so as to destroy existing vegetation unless in conjunction with agricultural activity, or unless necessarily incidental to construction on the premises under a currently valid building permit, or unless within streets which are either public or designated on an approved subdivision plan, or unless a special permit is approved by the Planning Board on condition that runoff will be controlled, erosion avoided, and either a constructed surface or cover vegetation will be provided

not later than the first full spring season immediately following completion of the stripping operation. No stripped area or areas which are allowed by special permit shall remain through the winter without a temporary cover of winter rye or similar plant material being provided for soil control, except in the case of agricultural activity where such temporary cover would be infeasible.

5564. The Building Commissioner may require the submission of all information from the building permit applicant or the landowner, in addition to that otherwise specified herein, necessary to ensure compliance with these requirements, including, if necessary, elevations of the subject property, description of vegetative cover, and the nature of impoundment basins proposed, if any.

5565. In granting a special permit hereunder, the Planning Board shall require a performance bond to ensure compliance with the requirements of this Section.

5566. Hillside areas, except naturally occurring ledge or bedrock outcroppings or ledge cuts, shall be retained with vegetative cover as follows:

Average percentage slope	Minimum percentage of land to remain in vegetation
10.0 - 14.9	25
15.0 - 19.9	40
20.0 - 24.9	55
25.0 - 29.9	70
30.0 and above	85

## **SECTION 6000. SPECIAL REGULATIONS**

### **6100. PERSONAL WIRELESS SERVICE FACILITIES**

### **6200. RECREATION BUILDINGS**

**6210. General.** Recreation buildings, including accessory buildings usually constructed with such buildings, shall conform to the following provisions.

6211. The ownership of the establishment must be a nonprofit charitable corporation so chartered by the Commonwealth of Massachusetts and so designated by the Internal Revenue Service of the federal government.

6212. The use of the premises shall be construed as being "public." There shall be no restrictions of any type regarding membership in any organization and/or club by race, creed or color while the building is opened to the "public." However, the premises could be "rented or hired" for "public assemblies" or to other nonprofit corporations of a similar type a@ the owner, provided, however, that any such "rental" shall not exceed five (5) consecutive days nor more than five (5) days in any month nor more than forty (40) days in any twelve (I 2) months. A notice stating the intent of this usage must be filed with the city clerk, with a copy sent to the building inspector, at least ten (10) days before such usage is contemplated. A written approval from the building inspector, with a copy sent to the city clerk, must be obtained before any such usage.

### **6220. Design Standards.**

6221. There shall be paved driveways at least twenty-five (25) feet wide with at least one (1) paved walkway, five (5) feet wide at the edge of the drive. The drive may not be "dead end" but must have at least two (2) entrances to an established public way. Such entrances if on the same street shall be at least three hundred (300) feet apart,

measured from the nearest edge of the drive. No parking shall be allowed at any time on the drive.

6222. Off-drive parking spaces (in accordance with design standards of Section 5100) must be provided at a ratio of one (1) space for each thirty-six (36) feet of free floor area (equipment and service rooms not included in such areas), plus one (1).

### **6300. COMMERCIAL AMUSEMENT DEVICES**

**6310. General.** Commercial amusement devices may be authorized by special permit, provided, however, to the board of appeals making the following specific findings with regard to each application for a special permit hereunder.

6311. That adequate security will be provided on the site:

6312. That adequate arrangements will be made to ensure that the location of the commercial amusement devices on the premises will not be open to school age children during school hours;

6313. That the operation of such commercial amusement devices will not create any significant increases in vehicular or pedestrian traffic in the neighborhood and that two (2) parking spaces be provided for each commercial amusement device;

6314. That adequate arrangements will be made or precautions will be taken to prevent the premises from becoming a public nuisance from the point of view of noise, trash generation and the like;

6315. That adequate sanitary facilities will be provided on the premises for the use of its customers where commercial amusement arcades are permitted;

6316. That adequate screening and noise barriers will be provided to shield other incompatible uses from the visual and aural effects of the commercial amusement devices; and

6317. That the board shall consider the density of such use and the proximity of such use to schools and residences.

**6320. Conditions.** The board shall impose such additional conditions as to hours and method of operation as the board shall determine are necessary or appropriate in the circumstances to protect the health, safety, convenience, morals and welfare of the inhabitants of the City of Salem. Each special permit granted shall be valid for a term of three (3) years.

#### **6400. AUTOMOBILE SERVICE STATIONS**

**6410. General.** Any automobile service station or gasoline filling station in any district shall conform to the following regulations. Where the density regulations for any district in which an automobile service station is located are more restrictive than the regulations contained hereinafter, the service station shall conform to the more restrictive dimensional requirements.

#### **6420. Design Standards.**

6421. Every automobile service station shall have a minimum lot width of one hundred twenty (120) feet and a minimum lot area of twelve thousand (12,000) square feet, plus an additional two thousand (2,000) square feet of lot area and an additional twenty (20) feet of lot width for every two (2) pumps and one (1) service bay in excess of four (4)' pumps and two (2) service bays. Duplex pumps and/or hoses that are covered or enclosed in a single housing shall be counted as two (2) pumps.

6422. Every structure erected for use as an automobile service station shall have a minimum setback from the



street right-of-way of forty (40) feet and a minimum setback from all property lines of ten (10) feet. All pump islands shall be set back a minimum of fifteen (15) feet from all property lines.

6423. A curb six (6) inches high and six (6) inches wide shall be provided along all property lines abutting street rights-of-way, except for portions used for driveway entrances.

6424. The entire area used for vehicle service shall be paved, except for such area as is landscaped and considerably protected from vehicle use by a low barrier.

6425. Hydraulic hoists, pits and lubricating, greasing, washing and repair equipment shall be entirely enclosed within a building.

6426. The width of driveway entrances shall be not more than twenty-four (24) feet. The angle of intersection of the driveway with the street shall be not more than sixty (60) degrees.

6427. The distance from any driveway to any side property line shall be not less than twenty (20) feet.

6428. The distance between curb cuts shall be not less than forty (40) feet.

6429. A solid wall or compact evergreen screening five (5) feet high shall be erected along all property lines abutting residential uses.

**6430. Lighting.** Exterior lighting shall be so arranged as to reflect light away from adjoining premises and streets.

**6500. REMOVAL OF EARTH PRODUCTS**

**6510. General.** The quarrying of stone or the removal of topsoil, sand, gravel or subsoil by any person, firm or corporation on any parcel of land in the City of Salem shall be

allowed only by special permit from the board of appeals after public notice and hearing, and no permit shall be issued for more than two (2) years.

6511. These regulations shall not apply where such removal or quarrying is necessarily incidental to or in connection with the construction, alteration, excavation or grading for a building, road or other facility involving a permanent change in the use of the land, provided that there is reasonable assurance that the construction will be diligently carried on until completion.

**6520. Conditions.** Removal or quarrying by special permit shall be subject to the following conditions:

6521. It must be determined that the removal or quarrying is not seriously detrimental to the neighborhood. Removal operations shall not be performed closer than three hundred (300) feet to a public road or to any existing dwelling, school or park. Removal operations as a nonconforming use of land shall not be extended beyond the property lines of the particular parcels upon which such operations are in progress at the time of the adoption of this ordinance.

6522. At no time shall quarries be maintained at levels such that groundwater and surface water accumulate. Such areas shall either be filled or drained.

6523. Where there is any open excavation, there shall be a substantial fence with suitable gates completely enclosing the portion of the property in which the excavation is located, and such fence shall be located not closer than fifty (50) feet from the edge of such excavation.

6524. When the removal or quarrying is discontinued, the earth shall be reshaped to reduce the disfigurement of the land, with a maximum allowable slope of twenty (20) percent. In case of topsoil removal, the area shall be seeded and maintained until plant cover is well established. These measures shall be taken progressively as the use of each part for removal or quarrying is

discontinued and shall not be postponed until final abandonment of the entire operation.

6525. The board of appeals may impose whatever additional requirements it deems necessary to accomplish the purposes herein stated, and such requirements, in addition to those stated above, shall be considered as conditions of the special permit.

#### **6600. SALES OF MOTOR VEHICLES AND BOATS**

**6610. General.** Unless a license is issued by the licensing board, no new and/or used motor vehicles, including motorcycles, trailers as defined in this ordinance, boats and canoes of any description, motors including outboard motors may be displayed and/or sold or rented, regardless of ownership of same, from any building or lot within the city limits.

**6620. Residential Districts.** This provision, however, shall not apply to any person who resides in RC, R1, R2 and R3 Districts, subject to the following provisions:

6621. Only one (1) vehicle or item, as listed hereinbefore, may be displayed for sale in any twelve-month period.

6622. The registered owner must reside in and be the owner of the property on which the vehicle for sale is displayed. Persons of the First degree of kindred permanently residing in the dwelling unit may be included in this interpretation.

6623. No vehicle for sale shall be permanently displayed on the street at any time, nor shall it be permanently displayed or parked in any front yard area.

6624. Only one (1) "For Sale" sign, which shall not exceed one and one-half (1 ½) square feet in area, may be displayed. This sign must be located on the interior side of the front or rear window.



## **SECTION 7000. SPECIAL RESIDENTIAL REGULATIONS**

### **7100. FLEXIBLE DEVELOPMENT**

**7100. Purpose.** The purposes of this section, Flexible Development, are:

1. to encourage the preservation of open land for its scenic beauty and to enhance agricultural, open space, forestry, and recreational use;
2. to preserve historical and archeological resources; to protect the natural environment, including Salem's varied landscapes and water resources;
3. to protect the value of real property;
4. to promote more sensitive siting of buildings and better overall site planning;
5. to perpetuate the appearance of Salem's traditional New England landscape;
6. to facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
7. to offer an alternative to standard subdivision development; and
8. to promote the development of housing for persons over the age of fifty five.

**7120. Applicability.** In accordance with the following provisions, a Flexible Development project may be created, whether a subdivision or not, from any parcel or set of contiguous parcels held in common ownership and located entirely within a residential district.

**7130. Procedures.** Flexible Development may be authorized upon the issuance of a special permit by the Planning Board.

Applicants for Flexible Development shall file with the Planning Board seven (7) copies of the following:

7131. A development plan conforming to the requirements for a preliminary plan as set forth in the Subdivision Rules and Regulations of the Planning Board.

7132. Where wetland delineation is in doubt or dispute, the Planning Board may require appropriate documentation.

7133. Data on proposed wastewater disposal, which shall be referred to a consulting engineer for review and recommendation.

7134. The Planning Board may also require as part of the development plan any additional information necessary to make the determinations and assessments cited herein.

**7140. Design Process.** Each development plan shall follow the design process outlined below. When the development plan is submitted, applicants shall be prepared to demonstrate to the Planning Board that this Design Process was considered in determining the layout of proposed streets, houselots, and contiguous open space.

7141. *Understanding the Site.* The first step is to inventory existing site features, taking care to identify sensitive and noteworthy natural, scenic and cultural resources on the site, and to determine the connection of these important features to each other.

7142. *Evaluating Site Context.* The second step is to evaluate the site in its larger context by identifying physical (e.g., stream corridors, wetlands), transportation (e.g., road and bicycle networks), and cultural (e.g., recreational opportunities) connections to surrounding land uses and activities.

7143. *Designating the Contiguous Open Space.* The third step is to identify the contiguous open space to be preserved on the site. Such open space should include the

most sensitive and noteworthy resources of the site, and, where appropriate, areas that serve to extend neighborhood open space networks.

7144. *Location of Development Areas.* The fourth step is to locate building sites, streets, parking areas, paths and other built features of the development. The design should include a delineation of private yards, public streets and other areas, and shared amenities, so as to reflect an integrated community, with emphasis on consistency with historical development patterns.

7145. *Lot Lines.* The final step is simply to draw in the lot lines (if applicable).

**7150. Modification of Lot Requirements.** The Planning Board encourages applicants for Flexible Development to modify lot size, shape, and other dimensional requirements for lots within a Flexible Development, subject to the following limitations:

7151. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the Flexible Development; provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lot(s) are consistent with existing development patterns in the neighborhood.

7152. At least 50% of the required side and rear yards in the district shall be maintained in the Flexible Development.

**7160. Number of Dwelling Units.** Units shall be allowed as follows:

7161. *Basic Maximum Number.* The Basic Maximum Number of dwelling units allowed in a Flexible Development shall not exceed the number of lots which could reasonably be expected to be developed upon the site under a conventional plan in full conformance with all zoning, subdivision regulations, health regulations, wetlands regulations and other applicable requirements. The proponent shall have

the burden of proof with regard to the design and engineering specifications for such conventional plan.

7162. Density Bonus. The Planning Board may award a density bonus to increase the number of dwelling units beyond the Basic Maximum Number. The density bonus for the Flexible Development shall not, in the aggregate, exceed fifty (50%) percent of the Basic Maximum Number. All dwelling units awarded as a density bonus shall be two bedroom units. Computations shall be rounded to the lowest number. A density bonus may be awarded in the following circumstances:

- a. For each additional ten percent (10%) of the site (over and above the required twenty-five percent) set aside as contiguous open space, a bonus of five (5%) percent of the Basic Maximum Number may be awarded; provided, however, that this density bonus shall not exceed 30% of the Basic Maximum Number.
- b. For every two (2) dwelling units restricted to occupancy by persons over the age of fifty-five, one (1) dwelling unit may be added as a density bonus; provided, however, that this density bonus shall not exceed 10% of the Basic Maximum Number.
- c. For every dwelling units containing not more than two (2) bedrooms, \_\_\_ dwelling unit may be added as a density bonus; provided, however, that this density bonus shall not exceed 10% of the Basic Maximum Number.

**7170. Standards.**

7171. Types of Buildings. The Flexible Development may consist of any combination of single-family, two-family and multifamily residential structures. A multifamily structure shall not contain more than five (5) dwelling units; provided, however, that in the \_\_\_ District(s) such structures may contain up to \_\_\_ units. The architecture of all multifamily buildings shall be residential in character, particularly providing gabled roofs,



predominantly wood or brick siding, an articulated footprint and varied facades and architecturally compatible with structures in the immediate neighborhood. Residential structures shall be oriented toward the street serving the premises and not the required parking area.

7172. Roads. The principal roadway(s) serving the site shall be designed to conform with the standards of the city where the roadway is or may be ultimately intended for dedication and acceptance by the city. Private ways shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners or by the Applicant.

7173. Parking. Each dwelling unit shall be served by two (2) off-street parking spaces. Parking spaces in front of garages may count in this computation. The Planning Board may require appropriate parking for guests.

7174. Contiguous Open Space. A minimum of twenty-five percent (25%) of the parcel shown on the development plan shall be contiguous open space. Any proposed contiguous open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved for exclusively agricultural, horticultural, educational or recreational purposes, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

- a. The percentage of the contiguous open space which is wetlands shall not normally exceed the percentage of the tract which is wetlands; provided, however, that the applicant may include a greater percentage of wetlands in such open space upon a demonstration that such inclusion promotes the purposes set forth in Section 1, above. In no case shall the percentage of contiguous open space which is wetlands exceed fifty (50%) of the tract.

- b. The contiguous open space shall be used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses, and shall be served by suitable access for such purposes.
- c. The contiguous open space shall remain unbuilt upon, provided that the Planning Board may permit up to twenty (20%) percent of such open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space, pedestrian walks, and bikepaths.
- d. Underground utilities to serve the Flexible Development site may be located within the contiguous open space.

7175. Ownership of the Contiguous Open Space. The contiguous open space shall, at the Planning Board's election, be conveyed to

- a. the City or its Conservation Commission;
- b. a nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above;
- c. a corporation or trust owned jointly or in common by the owners of lots within the Flexible Development. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the City to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the town an easement for this purpose. In such event, the City shall first provide fourteen (14)

days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the town may perform it. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.

7177. Buffer Areas. A buffer area of one hundred (100) feet shall be provided at the perimeter of the property where it abuts residentially zoned or occupied properties, except for driveways necessary for access and egress to and from the site. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance. The Planning Board may waive the buffer requirement (i) where the land abutting the site is the subject of a permanent restriction for conservation or recreation so long as a buffer is established of at least fifty (50') feet in depth which may include such restricted land area within such buffer area calculation; or (ii) where the land abutting the site is held by the Town for conservation or recreation purposes; or (iii) the Planning Board determines that a smaller buffer will suffice to accomplish the objectives set forth herein.

7178. Drainage. Stormwater management shall be consistent with the requirements for subdivisions set forth in the Rules and Regulations of the Planning Board.

**7190. Decision.** The Planning Board may approve, approve with conditions, or deny an application for a Flexible Development after determining whether the Flexible Development better promotes the purposes of this Flexible Development Ordinance than would a conventional subdivision development of the same locus.

7191. Relation to Other Requirements. The submittals and permits of this section shall be in addition to any other

requirements of the Subdivision Control Law or any other provisions of this Zoning Ordinance.

## **7200. PLANNED UNIT DEVELOPMENT**

**7210. Purpose.** Planned unit development is designed to provide various types of land uses which can be combined in compatible relationship with each other as part of a totally planned development. It is the intent of this provision to ensure compliance with the master plan and good zoning practices, while allowing certain desirable departures from the strict provisions of specific zone classifications. The advantages which are intended to result from the application of the planned unit development are to be ensured by the adoption of a precise development plan with a specific time limit for commencement of construction.

**7220. Applicability.** The planning board may grant a special permit for a planned unit development for any parcel of land in the following districts: R-3 Multifamily Residential District; B-1 Neighborhood Business District; B-2 Highway Business District; B-4 Wholesale and Automotive Business District; B-5 Central Development District; Industrial District. The parcel proposed for development shall contain a minimum of the lesser of sixty thousand (60,000) square feet or five (5) times the minimum lot size of the zoning district in which it is located, and shall be developed subject to the requirements and conditions set forth herein.

**7230. Uses.** All uses or any combination thereof permitted in R3, B1, B2, B4, B5 and I Districts may be allowed in a planned unit development, subject to the following limitations of uses:

7231. Residential development may take any form compatible with the existing or potential development of the surrounding neighborhoods.

7232. A specific commercial or industrial use for property adjacent to an existing commercial or residential zone may be approved as a planned unit development. Where this is permitted, the plan for the total property shall be

submitted and the applicant shall clearly detail, by engineering and architectural specifications and drawings, the manner in which the subject area is to be developed and the means that will be employed to protect the abutting property and the health, safety, welfare and privacy enjoyed thereon.

7233. Maximum bulk, yards, parking and loading requirements shall be established for each planned unit development district by the development plan approved by the Planning Board. Height limitations shall be in accordance with the zoning district in which the planned unit development is located.

**7240. Dimensional Requirements.** The following dimensional requirements shall apply:

7241. Minimum Lot Frontage. To preserve and protect the value of properties adjacent to a proposed planned unit development district and to provide for an orderly and uniform transition, lots which will be adjacent or across the street from existing residential developments shall be required to provide an amount of street frontage not less than that of existing lots but not greater than minimum ordinance requirements for the zone in which they are located.

7242. Minimum Lot Size. Residential lot sizes in a planned unit development district may be reduced below the minimum standards required by the zoning ordinance. As a prerequisite, the developer shall demonstrate that there is a reasonable relationship between the proposed lot size and the usable and accessible open area within the total development. An individual lot shall be large enough to provide for private open space associated with the living accommodations.

**7250. Open Space.** Provisions shall be made so that usable open space shall be owned:

7251. By the City of Salem for park, open space or conservation use; or

7252. By a corporation or trust owned or to be owned by the owners of lots or residential units within the land that may be approved by the planning board, with provisions for limited easements for recreational use by residents of the city; provided that such ownership shall vest in sufficient rights to bogs arid areas of enable it to enforce compliance with the restrictions imposed by the planning board as conditions of its special permit.

**7260. Procedures.** An application for planned unit development shall be accompanied by five (5) copies of a site plan as set forth in Section 9400 and, if applicable, all of the information required for a definitive plan pursuant to the Subdivision Regulations of the Planning Board of the City of Salem. The planning board shall, within seven (7) days after receipt of said application, transmit one (1) copy of said application and plan to the inspector of buildings, city engineer, board of health and conservation commission, who may at their discretion investigate the application and report in writing their recommendations to the planning board. The planning board shall not take final action on such plan until it has received a report thereon from the inspector of buildings, city engineer, board of health and conservation commission or until thirty-five (35) days have elapsed after distribution of such application without a submission of a report. Notice of the filing of the application shall be given to the city clerk, fire department, police department, superintendent of streets and shall school department.

**7270. Special Permit.** The Planning Board may grant a permit, subject to reasonable conditions, provided that:

7271. The proposed planned unit development is in harmony with the purposes and intent of this ordinance and the master plan of the City of Salem and that it will promote the purpose of this section.

7272. The mixture of uses in the planned unit development is determined to be sufficiently advantageous to tender it appropriate to depart from the normal requirements of the district.

7273. The planned unit development would not result in a net negative environmental impact.

## **SECTION 8000. SPECIAL DISTRICTS**

### **8100. WETLANDS AND FLOOD HAZARD DISTRICTS**

**8110. Purpose.** The purpose of the Wetlands and Flood Hazard District is:

8111. To protect the health and safety of the occupants of lands subject to seasonal or periodic flooding.

8112. To protect persons and property from hazard and loss through the regulation of future development of lands adjoining water-courses.

8113. To preserve the natural flood-control characteristics and the water storage capacity of wetlands and floodplains and to protect against pollution and contamination of such water supplies and to conserve valuable habitats for wildlife, including fisheries and shellfisheries.

8114. To ensure the control and containment of sewage, and the safety of gas, electric, fuel and other utilities from breaking, leaking, shortcircuiting, igniting or any other damage due to flooding.

**8120. Establishment.** The wetlands and Flood Hazard Districts are located as set forth below. Any proposed use to be located within the limits of these districts, as determined by the inspector of buildings, shall be governed by all regulations of this section as well as all other applicable provisions of this ordinance. Where the inspector of buildings is unable to determine the exact location of the boundaries of the districts, the planning board, with the assistance of the city engineer and the conservation commission, shall make the necessary interpretation.

8121. The Wetlands District is designated as follows:

- a. The areas designated on the maps titled "Wetland Areas of Salem, -Massachusetts," Nos' 01 through 31,



prepared by Dr. Jerome Long, dated March 15, 1977, on file with the city clerk, which are incorporated herein by reference, including those areas designated as buffer zones. The boundaries of this wetlands district shall be determined by the scaling distances on said maps.

- b. All saline waters and land from the mean high tide seaward to the municipal boundaries. Mean High Tide is elevation 8.8 feet Mean Low Water (4.44 feet Mean Sea Level).

8122. The Flood Hazard District follows the boundaries of the one hundred-year floodplain which is defined as the relatively flat lowland which adjoins a watercourse or other body of water and which is subject to periodic flooding by the watercourse or waterbody at a storm frequency of one (100) years. Specifically, the flood hazard district is defined as all areas designated as flood hazard areas Zones A, A3, V3,) as shown on the maps titled, "Federal Emergency Management Agency, Flood Insurance Rate Maps, Nos. 01 through 06, City of Salem, Massachusetts," dated March 15, 1977, as amended, on file with the city clerk, which are incorporated herein by reference or as may be amended<sup>1</sup>.

- a. The Flood Hazard District affected by coastal flooding (Zones A3, V3) is based on elevation 14.36 feet mean low water, 10.0 mean sea level. Boundary lines trace this elevation contour. Where it can be properly shown that land is above this elevation, that land shall not be considered as being included in the district.

**8130. Permitted Uses.** The Wetlands and Flood Hazard Districts shall be considered as overlying any other district established by this ordinance, and any use permitted in the portions of the district so overlaid may be permitted if authorized by a special

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<sup>1</sup> Editor's note-, As stated in subsection (i) of this section, an asterisk \* indicates that the provisions are minimum HUD requirements for floodplain management.

permit by the Planning Board as set forth herein. The portion of any lot within the Wetlands and/or Flood Hazard Districts may be used to meet the lot area, open space and yard requirements for the underlying zoning district in which the lot is situated without application for a special permit. In the Wetlands and Flood Hazard districts, the following uses are permitted as of right, provided that any and all permits, orders or approvals required by state or federal law shall have been obtained:

8131. Conservation of soil, water, plants and wildlife, including wildlife management shelters.

8132. Outdoor recreation, including play areas, nature study, boating, fishing and hunting where otherwise legally permitted.

8133. Noncommercial signs (as permitted in the underlying district), wildlife management areas foot, bicycle and/or horsepaths and bridges, provided such uses do not affect the natural flow pattern of any watercourse.

8134. Agriculture of all types including, but not limited to, grazing, crop farming, nurseries, truck gardening and handling of crops.

8135. Forestry, including landscaping and accessory uses such as flower or vegetable gardens, lawns and fences.

8136. Temporary nonresidential structures used in connection with fishing or growing, harvesting, storage or sale of crops raised on the promises.

8137. Unpaved accessways or unpaved accessory parking lots, substantially at grade, which are not needed in conjunction with vehicle or machinery sales, repairs or storage.

8138. Private paved driveways serving a single-family residence where alternative means of access are inappropriate and not reasonably feasible.

8139. For single family detached dwellings, two-family dwellings, or duplex houses existing at the time this section is enacted, the expansion of these (or their accessory) uses to a maximum of fifteen (15) percent of that portion of the lot covered when this section is enacted, provided that such expansions conform to all other provisions of this ordinance and do not constitute substantial improvement of a structure.

**8140. General Special Permit Findings.** In the Wetlands and Flood Hazard Districts, no structure or building, including pipes and wells, shall be erected, constructed, substantially improved, enlarged or otherwise created or moved; no area shall be paved; no earth or other material shall be stored, dumped used as fill, excavated or transferred; and no sediment shall be caused to be discharged from or onto a wetlands unless a special permit is granted by the Planning Board upon its determination that:

8141. The proposed use will comply in all respects to the uses and provisions of the underlying district in which the land is located.

8142. There are adequate convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets and property, particularly in the event of flooding of the lot(s) or adjacent lot(s) caused by either overspill from waterbodies or high runoff.

8143. Utilities, including gas, electricity, fuel, water and sewage disposal, shall be located and constructed so as to protect against breaking, leaking, shortcircuiting, grounding or igniting or any other damage due to flooding.\*

8144. The cumulative effect of the proposed development or use, when combined with all other existing and anticipated development and uses, will not obstruct or divert flood flow; substantially reduce natural floodwater storage capacity in the local drainage area; destroy valuable habitat for wildlife, including fisheries or shellfisheries; adversely affect groundwater resources or

increase stormwater runoff velocity so that water levels on other land are substantially raised or the danger from flooding increased.

**8150. Special Permit Findings - Wetlands District.** In the Wetlands District only, the Planning Board shall also find the following conditions to be fulfilled:

8151. The proposed development or use shall not include the storage of salt, chemicals, petroleum products or other contaminating substances or discharge of any polluting liquids or materials into streams, brooks or wetlands. (The polluting effects of substances on the wetlands are to be gauged by the "Rules and Regulations for the Establishment of Minimum Water Quality Standards and for the Protection of the Quality and Value of Water Resources" of the Commonwealth of Massachusetts.

8152. The floor levels of areas to be occupied by human beings as living or work spaces shall be four (4) feet or more above the seasonal high water table.

8153. If the basement floor level is below the seasonal high water table and affords the possibility of human occupancy at some future date, although not originally intended, adequate perimeter drainage and foundation shall be installed to withstand the effect of pressure and seepage. Furnace and utilities are to be protected from the effects of leaching.

8154. If the lot is to be served by an on-lot septic system, the leaching area designed for use, as well as a reserved area for future expansion or total future use, shall be plotted with dimensions on the site plan, and the leaching areas shall not be constructed where the seasonal high water table is less than four (4) feet below the bottom of the leaching areas.

**8160. Special Permit Findings - Flood Hazard District.** In the flood hazard district only, the planning board shall also find the following conditions to be fulfilled:

8161. The floor of the basement or, if none, the lowest floor of new construction or substantial improvement of structures for residential uses shall be at or above the 100-year flood level.

8162. The floor of the basement or, if none, the lowest floor of new construction or substantial improvement of structures for nonresidential uses shall be at or above the one-hundred-year flood level or the structures shall be floodproofed to that level in compliance with the applicable requirements of the Massachusetts State Building Code.\* Floodproofing measures shall ensure that the structure is watertight and that structural components have the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

**8170. Special Permit Findings - Coastal High Hazard Area.**

Where the proposed use will be located within a coastal high hazard area (Zone V3 on the FIA Flood Insurance Rate Maps), the planning board shall also find the following conditions to be fulfilled:

8171. New structures or substantial improvements shall be located landward of the reach of mean high tide.

8172. New structures or substantial improvements shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the one hundred-year flood level. Space below the lowest floor shall be free of fixed obstruction.

8173. The support of new structures or substantial improvements shall not be, in whole or in part, by the use of fill.

**8180. Special Permit Submittals.** An applicant for a special permit shall file an application in five (5) copies to the planning board and one (1) copy to the city clerk, which shall comply with the following submittal requirements:

8181. A site plan at a scale of one (1) inch equals twenty (20,) feet shall be prepared by a registered land surveyor or registered professional engineer and shall show at least the following:

- a. Lot lines within which the development is proposed and the tie-in to the nearest road intersection;
- b. The location, boundaries and dimensions of each lot in question;
- c. Two-foot contours of the existing and proposed land surface;
- d. Location of existing and proposed structures, watercourses, drainage and drainage easements, means of access, utilities, and sewer disposal facilities including leaching fields, if any. Proposed elevations should be noted.

8182. In the Wetlands District, a determination by a qualified engineer of the seasonal high water table, performed during the last two (2) weeks of March or the first three (3) weeks of April. A minimum of two (2) percolation tests for each leaching area shall be performed.

8183. A written report describing the proposed development or use relative to each of the conditions of subsection (d) above.

8184. In cases of floodproofing or pile construction, certification by a registered professional engineer or architect as to the elevation of floodproofing measures and as to compliance with the applicable sections of the Massachusetts State Building Code concerned with flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the base flood. Where specific methods or techniques have been previously certified, the planning board may waive this requirement.

8185. A list of federal, state and other local permits required of the applicant.

**8190. Procedures.** The planning board shall, within seven (7) days after the filing of said application, transmit one (1) copy of said application and plan to the inspector of buildings, city engineer, board of health and conservation commission, who may at their discretion investigate the application and report in writing their recommendations to the planning board. The planning board shall not take final action on such plan until it has received a report thereon from the inspector of buildings, city engineer, board of health and conservation commission or until thirty-five (35) days have elapsed after distribution of such application without a submission of a report. The planning board shall hold a public hearing on said application as soon as possible after receiving the above reports, in accordance with Chapter 40A of the Massachusetts General Laws. The planning board shall notify the applicant in writing of its decision on the special permit. The decision shall document the proposed development or use and the grounds for granting or refusing the special permit. The planning board may, as a condition of approval, require that the applicant give effective notice to prospective purchasers, by signs or by recording the special permit at the registry of deeds, of the wetland or flood hazard conditions associated with said premises and the steps undertaken by the petitioner or his successor in title to alleviate the effects of same.

8191. Annual Report. The planning board shall maintain a file of all applications for special permit or variance under the flood hazard district and shall summarize these in its annual report. The summary shall be in a format acceptable to HUD, and a copy of said report shall be sent to the following agencies:

Flood Insurance Program  
Dept. of HUD  
15 New Chardon Street  
Boston, Massachusetts 02114

Federal Insurance Administrator  
Dept. of HUD  
451 Seventh St. SW  
Washington, D.C. 20410

**8200. BUSINESS PARK DEVELOPMENT DISTRICT**

**8210. Purpose.** The Business Park Development District is designed to provide encouragement for the development of land uses which will:

8211. Create business and industry within the city.

8212. Enhance the city's employment base.

8213. Enhance the city's tax and revenue base.

8214. Ensure compliance with the master plan and acceptable zoning practices.

**8220. Special Permit.** No development in excess of ten thousand (10,000) square feet of gross building area shall be allowed within the Business Park Development District without a special permit from the planning board.

**8230. Submittals.** An application for a special permit shall be accompanied by five (5) copies of the following information:

8231. All information required for a definitive plan under the subdivision regulations of the planning board of the City of Salem;

8232. A site plan pursuant to Section 9400;

8233. A Development Impact Statement pursuant to Section 9300.

**8240. Procedures.** The planning board shall, within seven (7) days after receipt of said application, transmit one (1) copy of said application and plan to the inspector of buildings, city engineer, board of health and conservation commission, who may



at their discretion investigate the application and report in writing their recommendations to the planning board. The planning board shall not take final action on such plan until it has received a report thereon from the inspector of buildings, city engineer, board of health and conservation commission or until thirty-five (35) days have elapsed after distribution of such application without a submission of a report. Notice of the filing of the petition shall be given to the city clerk, fire department, police department, superintendent of streets and school department and further notice shall be given as required by the planning board, and a public hearing shall be held within sixty-five (65) days after filing of an application in accordance with Massachusetts General Laws, Chapter 40A.

**8250. Standards.** The following standards shall apply to special permits granted in the district:

8251. If the surrounding area is residential in nature or is land reserved for conservation use, or is land which the board determines to be appropriate for such a requirement, a seventy-five foot buffer zone shall be provided on the parcel being proposed for development within which no construction or disturbance of land, excepting approved landscaping or screening, shall take place.

8252. To enhance the quality of the development and to maintain adequate open space, ten (10) percent of all land area must be maintained as open space. No construction of any kind shall take place in such area.

8253. Parking and loading requirements: Parking and loading requirements shall be met as defined in Sections 5100 and 5200 or as required by the planning board.

8254. Screening and landscaping: The proposed development shall properly screen all buildings, structures and other construction with vegetative landscaping, earth berms, fencing or other appropriate screening as set forth in Section 5400 or as may be determined by the planning board.

8255. Complementary and ancillary uses: In addition to the uses set out as permitted uses in the Business Park Development District in the Table of Use Regulations, the development of other uses shall also be allowed at the discretion of the planning board, if the board determines that such use will complement existing and proposed uses and act as an acceptable ancillary use. Such other uses to be considered are as follows:

- a. Restaurants and other eating establishments;
- b. Hotels, motels and other lodging establishments.

### **8300. ENTRANCE CORRIDOR OVERLAY DISTRICT**

**8310. Purpose.** The purpose of the Entrance Corridor Overlay District is to augment underlying zoning regulations in designated areas to:

8311. Protect and enhance the major entrance ways into the city; and

8312. Ensure that such areas are Improved in a manner which is in the best interest of the city.

**8320. Applicability.** The Entrance Corridor Overlay District shall be established along the corridors designated on the zoning map. The boundaries of the overlay shall be interpreted as following the rear lot lines of properties fronting on the corridor or along a line one hundred fifty (150) feet from the centerline of the corridor, whichever is less.

8321. Properties within such district shall be controlled by the regulations of the underlying zoning districts, except as hereunder specified. In instances of conflicting requirements, the restrictions listed below shall prevail.

8322. The requirements of this section shall not apply to Planned Unit Development (PUD) proposals, or those

development proposals which are required to obtain a special permit.

**8330. Dimensional and Other Requirements.** The following requirements shall apply to all properties in the Entrance Corridor Overlay Districts:

8331. Curb cuts. Only one (1) curb cut of no greater than twenty-four (24) feet shall be permitted for all residential uses. A maximum of two (2) curb cuts no greater than twenty-four (24)feet each shall be permitted for all commercial uses.

8332. Mechanical equipment and refuse storage areas. No refuse storage areas or mechanical equipment areas shall be located in a front yard, nor within twenty-five (25) feet of the front lot line of the side yard. Such areas shall be screened from all public ways, parking areas, residential land uses and open space areas.

**8340. Parking Areas.** All parking areas of more than twelve (12) spaces shall be arranged and landscaped to properly screen vehicles from adjacent properties and streets. The requirements for such landscaping are as follows:

DELETE and refer to Section 5400?

8341. Landscaping shall include one (1) tree of three and one-half-inch to four-inch caliper for each three (3) parking spaces. Trees shall be planted in plant beds bounded by six-inch granite curbing.

8342. No plant bed shall be less than fifteen(15) square feet, and no dimension of such plant bed shall be less than three (3) feet.

8343. A planting strip of no less than three (3) feet wide shall separate vehicles parked face to face in a parking area. Such planting strip shall include one (1)three and one-half-inch to four-inch caliper tree every twenty-seven

(27) feet(in line with striping and other appropriate landscaping.

**8350. Fences.** In order to maintain and maximize aesthetic views and sight lines, all fences along the front and side lot lines shall comply with the following standards:

8351. No fence along front or side lot line shall be more than four (4) feet in height, as measured from the curb level of the street, or average grade elevation of the land where the fence is to be located, whichever is deemed appropriate.

8352. Chainlink and wire fences are prohibited along and side lot lines.

8353. Any fence constructed within an Entrance Corridor Overlay District shall require a fence permit issued by the city building department.

**8360. Signage.**

Delete and refer to or incorporate within sign ordinance?

A sign review committee, comprised of the following members, shall be established for the purpose of reviewing all signage proposed for an Entrance Corridor Overlay District: Building inspector or his designee; City planner or his designee; and Representative of the Salem Redevelopment Authority.

8361. The sign review committee shall review the size, location, type of material and design of all signs located within an Entrance Corridor Overlay District.

8362. The sign review committee shall follow the Salem Sign Ordinance, except that the sign review committee shall be allowed to limit the size of all signs within an Entrance Corridor Overlay District to one-half (1/2) the size which is allowed in the underlying zone.

8363. Approval by a simple majority of this committee is required prior to a sign permit being granted by the city.



## **SECTION 9000. ADMINISTRATION AND PROCEDURES**

### **9100. ADMINISTRATION**

**9110. Permits.** This ordinance shall be administered by the Building Commissioner. Pursuant to the State Building Code, the Building Commissioner may require such plans and specifications as may be necessary to determine compliance with all pertinent laws of the Commonwealth and may request advisory reviews by other municipal boards and officials. Buildings, structures or signs may not be erected, substantially altered, moved, or changed in use and land may not be substantially altered or changed with regard to size or shape or principal use unless in compliance with then-applicable zoning, and after all necessary permits have been received under federal, state, or local law. Issuance of a Building Permit or Certificate of Use and Occupancy, where required under the Commonwealth's State Building Code, may serve as certification of such compliance.

**9120. Enforcement.** The Building Commissioner shall institute and take any and all such action as may be necessary to enforce full compliance with any and all of the provisions of this ordinance and of permits, special permits, variances, and site plan approval issued thereunder, including notification of noncompliance and legal action through in conjunction with the Office of the City Solicitor.

**9130. Penalties.** The penalty for violation of any provision of this ordinance, of any of the conditions under which a permit is issued, or of any decision rendered by the Board of Appeals, any special permit granting authority, or the site plan approval board shall be three hundred dollars (\$300.00) for each offense. Each day that each violation continues shall constitute a separate offense.

**9140. Non-criminal disposition.** Pursuant to city ordinance \_\_\_\_, the Building Commissioner may enforce this Zoning Ordinance by the non-criminal disposition of the matter.

### **5200. BOARD OF APPEALS**

**9210. Establishment.** A board of appeals is hereby established, which shall consist of five (5) members to be appointed by the mayor, subject to the confirmation of the city council, each for a term of five (5) years and with the term of one (1) appointee expiring each year.

9211. The board shall elect annually a chairman from its membership, shall appoint a secretary and shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of G. L. c. 40A.

9212. The mayor, subject to the confirmation of the city council, may appoint associate members to the board of appeals. In accordance with G.L. c. 40A, no more than two (2) associate members may be on the board of appeals at any time, and their duties shall be as determined by statute.

**9220. Powers.** The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B, and 41 of the General Laws of the Commonwealth and by this ordinance. The Board's powers are as follows:

9221. To hear and decide applications for special permits. Unless otherwise specified herein, the Board of Appeals shall serve as the special permit granting authority, to act in all matters in accordance with the provisions of Section 9300, or as otherwise specified.

9222. To hear and decide appeals or petitions for variances from the terms of this ordinance, with respect to particular land or structures, as set forth in G.L. c. 40A, s. 10.

9223. To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of G.L. c. 40A, ss. 7, 8 and 15.

9224. To hear and decide comprehensive permits for construction of low or moderate income housing by a public

agency or limited dividend or nonprofit corporation, as set forth in G.L. c. 40B, ss. 20-23.

**9230. Variances in the Wetlands and Flood Hazard Districts.** A variance may be granted from the provisions of Section 8100 in accordance with the terms of this zoning ordinance and with the terms of Massachusetts General Laws, Chapter 40A, Section 10, but only upon the following additional terms and conditions:

9231. A special permit has been applied for in accordance with Section 8100 and has been denied.

9232. The board of appeals shall only grant a variance from the provisions of this section upon:

- a. A showing of good and sufficient cause;
- b. A determination that failure to grant a variance would result in exceptional hardship to the applicant;
- c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances; and
- d. A determination that the variance is the minimum necessary to afford relief.

9233. Along with the petition for a variance hereunder, the petitioner shall file:

- a. A written report describing the proposed development or use relative to the conditions in Section 8100;
- b. The special permit application for Section 8100 as filed with the Planning Board;
- c. A copy of the planning board decision relative to the special permit.



9234. The board of appeals shall notify the planning board, city engineer, board of health, conservation commission and historical commission of the required public hearing. In the event a variance is granted, the board shall document in its decision the nature of the variance from the provisions of the wetlands and flood hazard districts as well as the grounds for its granting. A variance from the flood hazard district shall include the following statement:

"The construction of a structure below the base flood level increases risks to life and property and will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage."

9235. The board of appeals shall, as a condition of the variance, require that a copy of the variance be recorded by the applicant at the registry of deeds.

**9240. Conditions.** Variances may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the board of appeals may deem necessary to serve the purposes of this ordinance. Such conditions may include, but are not limited to: private disposal of waste; deadline to commence construction; signage; alarm system; limits on vehicles, number of students, gender of residents, noise, possession of substances; maintenance requirements; landscaping, parking spaces; dust control; term for years with or without automatic renewals; sewer connection; bond.

**9250. Regulations.** The Board of Appeals may adopt rules and regulations for the administration of its powers.

**9260. Fees.** The Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive permits.

**9300. SPECIAL PERMITS**

**9310. Special Permit Granting Authority.** Unless specifically designated otherwise, the Board of Appeals shall act as the special permit granting authority.

**9320. Criteria.** Special permits shall be granted by the special permit granting authority, unless otherwise specified herein, only upon its written determination that the benefit to the city and the neighborhood outweigh the adverse effects of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this ordinance, the determination shall include consideration of each of the following:

9321. Social, economic, or community needs which are served by the proposal;

9322. Traffic flow and safety, including parking and loading;

9323. Adequacy of utilities and other public services;

9324. Neighborhood character and social structures;

9325. Impacts on the natural environment, including drainage; and

9326. Potential fiscal impact, including impact on city services, tax base, and employment.

**9330. Procedures.** Applicants shall file \_\_\_\_\_ copies of the special permit application and plans with the City Clerk. Whenever an application for a special permit is so filed, the applicant shall also file, within five (5) working days of the filing of the completed application, copies of the application and plans with the Board of Health, Conservation Commission, Building Inspector, Board of Public Works, and Planning Board, for their consideration, review, and report.

9331. An application shall not be deemed complete until all copies of required information and documentation have been filed with the special permit granting authority.

9332. The special permit granting authority shall notify applicants by registered mail, within 14 days of submittal, of incomplete application status, and the applicant shall have 14 days from the mailing of such notice to complete an application. Failure to complete an application within such time or to file plans with the agencies or officials set forth above shall be deemed nonsubmittal of the application, without prejudice.

9333. Reports from other boards and officials shall be submitted to the special permit granting authority by the date of the public hearing, but in any case within thirty-five (35) days of receipt of the reviewing party of all of the required materials; failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto.

9334. In the event that the public hearing by the special permit granting authority is held prior to the expiration of the 35 day period, said authority shall continue the Public Hearing to permit the formal submission of reports and recommendations within that 35 day period.

9335. The provisions of this Section 9330 shall not apply to applications for special permits to reconstruct, extend, alter, or structurally change a nonconforming single or two family structure. The Board of Appeals may adopt regulations to establish procedures governing the form of such applications.

**9340. Plans and Other Submittals.** An applicant for a special permit shall submit a plan in substantial conformance with the requirements of Section 9400, herein. At the discretion of the special permit granting authority, the submittal of a development impact statement (DIS) may be required. The DIS shall be prepared by an interdisciplinary team including a

Registered Landscape Architect or Architect, a Registered Professional or Civil Engineer, and a Registered Surveyor.

9351. Physical Environment.

(a) Describe the general physical conditions of the site, including amounts and varieties of vegetation, general topography, unusual geologic, archeological, scenic and historical features or structures, location of significant viewpoints, stone walls, trees over 16 inches in diameter, trails and open space links, and indigenous wildlife.

(b) Describe how the project will affect these conditions, providing a complete physical description of the project and its relationship to the immediate surrounding area.

9352. Surface Water and Subsurface Conditions.

(a) Describe location, extent, and type of existing water and wetlands, including existing surface drainage characteristics, both within and adjacent to the site.

(b) Describe any proposed alterations of shore lines, marshes, or seasonal wet areas.

(c) Describe any limitations imposed on the project by the site's soil and water conditions.

(d) Describe the impact upon ground and surface water quality and recharge, including estimated phosphate and nitrate loading on groundwater and surface water from septic tanks, lawn fertilizer, and other activities within the site.

9353. Circulation Systems.

(a) Project the number of motor vehicles to enter or depart the site per average day and peak hour. Also

state the number of motor vehicles to use streets adjacent to the site per average day and peak hour. Such data shall be sufficient to enable the special permit granting authority to evaluate (i) existing traffic on streets adjacent to or approaching the site, (ii) traffic generated or resulting from the site, and (iii) the impact of such additional traffic on all ways within and providing access to the site. Actual study results, a description of the study methodology, and the name, address, and telephone number of the person responsible for implementing the study, shall be attached to the DIS.

9354. Support Systems.

(a) Water Distribution: Discuss the types of wells or water system proposed for the site, means of providing water for fire-fighting, and any problems unique to the site.

(b) Sewage Disposal: Discuss the type of on-site or sewer system to be used, suitability of soils, procedures and results of percolation tests, and evaluate impact of disposal methods on surface and groundwater.

(c) Refuse Disposal: Discuss the location and type of facilities, the impact on existing city refuse disposal capacity, hazardous materials requiring special precautions.

(d) Fire Protection: Discuss the type, location, and capacity of fuel storage facilities or other flammables, distance to fire station, and adequacy of existing fire fighting equipment to confront potential fires on the proposed site.

(e) Recreation: Discuss the distance to and type of public facilities to be used by residents of the proposed site, and the type of private recreation facilities to be provided on the site.

(f) Schools: Project the increase to the student population for nursery, elementary, junior high school, enrollment in the nearest public schools serving these categories of students.

9355. Phasing. Where development of the site will be phased over more than one (1) year, indicate the following:

(a) Describe the methods to be used during construction to control erosion and sedimentation through use of sediment basins, mulching, matting, temporary vegetation, or covering of soil stockpiles. Describe the approximate size and location of portion of the parcel to be cleared at any given time and length of time of exposure.

(b) Describe the phased construction, if any, of any required public improvements, and how such improvements are to be integrated into site development.

**9360. Conditions.** Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the special permit granting authority may deem necessary to serve the purposes of this ordinance. Such conditions may include, but are not limited to:

private disposal of waste; deadline to commence construction; signage; alarm system; limits on vehicles, number of students, gender of residents, noise, possession of substances; maintenance requirements; landscaping, parking spaces; dust control; term for years with or without automatic renewals; sewer connection; bond; limitation to the term of ownership or use by the applicant.

**9370. Lapse.** Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 24 months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 17, from the grant thereof) with the City Clerk.

**9380. Regulations.** The special permit granting authority may adopt rules and regulations for the administration of this section.

**9390. Fees.** The special permit granting authority may adopt reasonable administrative fees and technical review fees for applications for special permits.

#### **9400. SITE PLAN REVIEW**

**9410. Applicability.** The following types of activities and uses require site plan review by the Planning Board:

9411. Construction, exterior alteration or exterior expansion of, or change of use within, a municipal, institutional, commercial, industrial, or multi-family structure with four or more dwelling units;

9412. Construction or expansion of a parking lot for a municipal, institutional, commercial, industrial, or multi-family structure or purpose.

**9420. Procedures.** Minor site plan approval, as set forth in Section \*, below, shall follow the procedures set forth herein. Major site plan review shall require a public hearing in accordance with the procedures set forth in G.L. c. 40A, ss. 9 and 11. Applicants shall submit five (5) copies of the site plan to the Planning Board for review, and within three (3) days thereafter shall also submit a copy of the site plan to the City Council, Board of Health, Board of Public Works, Building Inspector, City Engineer, and Conservation Commission for their advisory review and comments. The Planning Board shall review and act upon the site plan, with such conditions as may be deemed appropriate, within sixty (60) days of its receipt, and notify the applicant of its decision. The decision of the Planning Board shall be upon a majority of those present and shall be in writing. No building permit or certificate of occupancy shall be issued by the Building Inspector without the written approval of the site plan by the Planning Board, or

unless 60 days lapse from the date of the submittal of the site plan without action by the Planning Board.

9421. Application for Building Permit. An application for a building permit to perform work as set forth in Section 9410 available as of right shall be accompanied by an approved site plan.

9422. Application for Special Permit or Variance. An application for a special permit or a variance to perform work as set forth in Section 9410 shall be accompanied by an approved site plan; in the alternative, any special permit or variance granted for work set forth in Section 9410 shall contain the following condition:

The work described herein requires the approval of a site plan by the Salem Planning Board pursuant to Section 9400 of the Zoning Ordinance. Any conditions imposed in such site plan approval shall also be conditions of this special permit/variance.

9423. Where the Planning Board approves a site plan "with conditions", and said approved site plan accompanies a special permit or variance application to the Board of Appeals, the conditions imposed by the Planning Board shall be incorporated into the issuance, if any, of a special permit or variance by the Board of Appeals.

9424. Where the Planning Board serves as the special permit granting authority for proposed work, it shall consolidate its site plan review and special permit procedures.

9425. The applicant may request, and the Planning Board may grant by majority vote, an extension of the time limits set forth herein.

9426. No deviation from an approved site plan shall be permitted without modification thereof.



**9430. Preparation of Plans.** Applicants are invited to submit a pre-application sketch of the proposed project to the Planning Board and to schedule a comment period at a regular meeting of the Planning Board. Site Plans shall be submitted on 24-inch by 36-inch sheets. Plans shall be prepared by a Registered Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect, as appropriate. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of 1"=20'.

**9440. Contents of Plan.** The contents of the site plan are as follows:

9441. Six (6) separate plans prepared at a scale of one (1) inch equals twenty (20) feet or such other scale as may be approved by the planning board. The plans are as follows:

a. Locus plan, at a scale of one (1) inch equals one hundred (100) feet, showing the entire project and its relation to existing areas, buildings and roads for a distance of one thousand (1,000) feet from the project boundaries or such other distance as may be approved or required by the planning board.

b. Site layout, which shall contain the boundaries of the lot(s) in the proposed development, proposed structures, drives, parking, fences, walls, walks, outdoor lighting, loading facilities, areas for snow storage after plowing, and all proposed recreational facilities and open space areas.

c. Topography and drainage plan, which shall contain the existing and proposed final topography at two-foot intervals and plans for handling stormwater drainage, and all wetlands including floodplain areas.

d. Utility plan, which shall include all facilities for refuse and sewage disposal or storage of all

wastes, the location of all hydrants, fire alarm and firefighting facilities on and adjacent to the site.

e. Architectural plan, which shall include the ground floor plan and architectural elevations of all proposed buildings and a color rendering.

f. Landscaping plan, showing the limits of work, existing tree lines, and all proposed landscape features and improvements including screening, planting areas with size and type of stock for each shrub or tree, and including proposed erosion control measures.

9442. The site plan shall be accompanied by a written statement indicating the estimated time required to complete the proposed project and any and all phases thereof. There shall be submitted a written estimate, showing in detail the costs of all site improvements planned.

9443. A written summary of the contemplated projects shall be submitted with the site plan indicating, where appropriate, the number of dwelling units to be built and the acreage in residential use, the evidence of compliance with parking and off-street loading requirements, the forms of ownership contemplated for the property and a summary of the provisions of any ownership or maintenance thereof, identification of all land that will become common or public land, and any other evidence necessary to indicate compliance with this ordinance.

9444. The site plan shall be accompanied by drainage calculations by a registered professional engineer. Storm drainage design must conform to City of Salem subdivision regulations.

9445. The Planning Board may require a DIS as set forth in Section 9300, above.

9446. Certification that the proposal is in compliance with the provisions, if applicable, of the Americans with Disabilities Act and the Massachusetts Architectural Barriers Board.

**9450. Waiver of Compliance; Minor and Major Site Plans.** The Planning Board may, upon written request of the applicant, waive any of the technical requirements of Section 9430 and 9440 where the project involves relatively simple development plans or constitutes a minor site plan. An application for permits to build, alter or expand any nonresidential building, structure or use in any district where such construction will not exceed a total gross floor area of 2000 square feet, or an application which will not generate the need for more than 10 parking spaces shall be deemed a "minor site plan." For the purposes of computing the total gross floor area of a minor site plan, the Planning Board shall aggregate all such applications made within the five (5) previous calendar years. Minor site plans shall set forth all of the information required by Section 9440; provided, however, that the scale of the site plan may be 1' = 80', and the plan may depict topographical contours at intervals available on maps provided by the United States Geological Survey.

**9460. Approval.** Site Plan approval shall be granted upon determination by the Planning Board that the plan meets the following objectives. The Planning Board may impose reasonable conditions at the expense of the applicant, including but not limited to those set forth in Section 9360, to promote these objectives. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the functional requirements of the Planning Board's Subdivision Rules and Regulations. New building construction or other site alteration shall be designed in the Site Plan, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to:

9461. Minimize the volume of cut and fill, the number of removed trees 6" caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution;

9462. Maximize pedestrian and vehicular safety both on the site and egressing from it;

9463. Minimize obstruction of scenic views from publicly accessible locations;

9464. Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;

9465. Minimize glare from headlights and lighting intrusion;

9466. Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places.

9467. Minimize contamination of groundwater from on-site waste-water disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances;

9468. Ensure compliance with the provisions of this Zoning Ordinance, including parking and landscaping.

**9470. Lapse.** Site plan approval shall lapse after two years from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.

**9480. Regulations; Fees.** The Planning Board may adopt and from time to time amend reasonable regulations for the administration of these Site Plan guidelines. The Planning Board may adopt

reasonable administrative fees and technical review fees for site plan review.

**9490. Appeal.** Any decision of the Planning Board pursuant to this Section 9400 shall be appealed in accordance with the provisions of G.L. c. 40A, s. 17 to a court of competent jurisdiction.

## DEFINITIONS

**A. General rules.** For the purposes of this ordinance, the following general rules shall be adhered to in interpreting certain commonly used words:

(1) The word *person* includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.

(2) The word *shall* is mandatory; the word *may* is permissive.

(3) The words *used or occupied* include the words *intended, designed or arranged to be used or occupied*.

(4) The word *lot* includes the words *plot or parcel*; the word *building* includes the word *structures* and the word *land* includes the word *marsh*.

(5) The present tense includes the future tense; the singular number includes the plural, and the plural number includes the singular.

**B. Selected terms and words.** Words and/or terms not specifically defined hereinafter in this section shall be defined in accordance with:

(1) *The Dictionary of Architecture* (latest edition), edited by Henry H. Saycor and published by John Wiley & Sons, Inc., New York; and

(2) If words and/or terms used herein are not listed in the architectural dictionary, the definition shall be in accordance with the latest edition of *The Merriam-Webster Unabridged Dictionary*,. edited by G. & C. Merriam Co. and published by G. & C. Merriam Co., Springfield, Massachusetts.

*Accessory building:* A subordinate building located on the same lot as the main, or principal building or principal use, the use

of which is customarily incidental to that of the principal building or use of the land.

*Accessory use:* A use customarily incidental to that of the main or principal building or use of the land.

*Adult day care facility:* A social day care or adult day health facility as those terms are defined by the Commonwealth's Department of Elder Affairs.

*Alterations, structural:* Any change or rearrangement in the supporting members of a building, such as bearing walls, columns, beams or girders.

*Amusement arcade:* Any lot licensed to maintain three (3) or more commercial amusement devices that are regulated by Section 177A of Chapter 140 of the General Laws.

*Amusements, commercial:* Any amusement device licensed under the provision of G.L. c. 40, s. 177A.

*Antenna:* The surface from which wireless radio signals are sent and received by a personal wireless communication facility.

*Automobile service station:* Any area of land, including structures thereon, used as a retail place of business engaged in supplying goods and services essential for the normal operation of a motor vehicle, including the dispensing of gas and oil, the servicing and replacement of tires, batteries and other automobile accessories and washing and lubricating services, but not including body and fender work, painting **or** major motor repairs.

*Bed and breakfast establishment:* Accommodations with not more than \_\_\_ bedrooms occupied by bed and breakfast guests in which the owner of the establishment resides. Bed and breakfasts are intended for guest on intermittent visits, and shall not be used as long-term rental units or apartments. All parking for residents and guests shall be off-street.

*Boarding house:* A dwelling or part thereof in which lodging is provided by the owner or operator to at least three, but not more than six, boarders.

*Building:* Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattel.

*Building, attached:* A building, having one (1) portion completely separated from another portion by a division wall without openings.

*Building, detached:* A building, usually an accessory building, having no direct attachment to the principal building on the lot.

*Building line:* The line of a building face, which face shall include cornices projecting more than twelve (12) inches, balconies, sun parlors, covered porches and entrances, whether enclosed or unenclosed, but shall not include steps.

*Building, principal:* A building in which is conducted the main or principal use of the lot on which said building is situated.

*Business or professional office:* A building or part thereof, for the transaction of business or the provision of services exclusive of the receipt, sale, storage, or processing of merchandise.

*Capital improvements program:* The capital improvements program shall be prepared by the planning board, assisted by the planning department, and approved by the mayor and the city council. This capital improvements program shall be in seven-year incremental periods of effectiveness, not to exceed a total of twenty-one (21) years, for the development of the city in accord with the master plan and official zoning map in order to provide for maximum orderly, adequate and economical provision of transportation, water, sewerage, drainage, parks and recreation, schools, municipal facilities and structures and other public requirements.



*Carrier:* Company that provides wireless services.

*Child Care Facility:* A day care center or school age child care program, as those terms are defined in G.L. c. 28A, s. 9.

*City:* The City of Salem.

*Clinic, medical or dental:* A building or buildings having facilities for diagnosis and minor treatment of humans, as differentiated from hospitals. The building may have doctors' offices, x-ray rooms, laboratories, operating room for minor surgery, kitchen and diet kitchen facilities. The building will primarily be used for "out patients" or ambulatory patients and not for convalescent patients. However, not more than ten (10) beds may be provided for patients under diagnoses, for occupancy not to exceed four (4) days.

*Co-location:* The use of a monopole by more than one (1) carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one (1) carrier (horizontal co-location).

*Commercial recreation, indoor:* A structure for recreational, social or amusement purposes, which may include as an accessory use the consumption of food and drink, including all connected rooms or space with a common means of egress and entrance. Places of assembly shall include theatres, concert halls, dance halls, skating rinks, bowling alleys, health clubs, dance studios, or other commercial recreational centers conducted for or not for profit.

*Commercial recreation, outdoor:* Drive-in theatre, golf course/driving range, bathing beach, sports club, horseback riding stable, boathouse, game preserve, marina or other commercial recreation carried on in whole or in part outdoors, except those activities more specifically designated in this ordinance.

*Contiguous open space:* Open space suitable, in the opinion of the Planning Board, for the purposes set forth herein. Such open space may be separated by the road(s) constructed within

the Flexible Development. Contiguous open space shall not include required yards.

*Contractor's yard:* Premises used by a building contractor or subcontractor for storage of equipment and supplies, fabrication of subassemblies, and parking of wheeled equipment.

*Convalescent or nursing home:* As defined by Section 71 of Chapter III of the General Laws: A convalescent or nursing home is defined as any institution, however named, whether conducted for charity or profit, which is advertised, announced or maintained for the express or implied purpose of caring for three (3) or more persons admitted thereto for purposes of nursing or convalescent care.

*Developer:* Any person who, having an interest in land, causes it directly or indirectly to be used for residential development; or who directly or indirectly sells, leases or develops or offers to sell, lease or develop or advertises for sale, lease or development any lot, plot, parcel, site, unit or interest for residential use.

*Development permit:* A permit to be issued to a developer by the planning board granting the right to develop a given parcel of land for residential use after said parcel has been approved for such development as determined by the standards of issuance for residential development contained herein.

*Development use, residential:* The erection or construction of dwellings on any plots, lots or parcels of land or any portion thereof

*Dormitory:* A building having facilities to house persons in single rooms or double rooms with common toilet and bathing facilities. The building may also have common rooms, recreation rooms, self-service laundry facilities and snack kitchens.

*Drive-in restaurants or snack bars:* Any eating establishment where commodities are consumed on the premises but outside the principal building.

*Dwelling:* A building designed or used as the living quarters for one (1) or more families.

*Dwelling, multifamily:* A building designed for or occupied by three (3) or more families, with separate housekeeping and cooking facilities for each.

*Dwelling, multi family, garden type:* A building designed for or occupied by three (3) or more families, but not more than eighteen (18) families, with separate housekeeping and cooking facilities for each. The buildings will further conform to the requirements of section 5-3(d)(5) herein. The terms "town houses," "row houses," "attached houses" and like terms shall be interpreted as being synonymous with the term "multifamily, garden type."

*Dwelling, single-family:* A detached building designed for or occupied by one (1) family only.

*Dwelling, multi-family:* A building designed for or occupied by two (2) families only, with separate housekeeping and cooking facilities for each. A so-called duplex dwelling, even though having two (2) separate entrances and street numbers, shall be construed as being a single building.

*Dwelling unit:* A building or portion thereof providing complete housekeeping and cooking facilities for one (1) family.

*Educational use, nonexempt:* Educational facilities not exempted from regulation by G.L. c. 40A, s. 3.

*Essential services:* Services provided by a public service corporation or by governmental agencies through erection, construction, alteration, or maintenance of gas, electrical, steam, or water transmission or distribution systems and collection, communication, supply, or disposal systems whether underground or overhead, but not including wireless communications facilities. Facilities necessary for the provision of essential services include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment in connection therewith.

*FAA:* The Federal Aviation Administration.

*Fall zone:* The area on the ground within the prescribed radius from the base of a personal wireless service facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

*Family:* One (1) or more persons occupying a dwelling unit and living together as a single nonprofit housekeeping unit; provided that a group of three (3) or more persons who are not within some degree of kinship shall not be deemed to constitute a family.

*Family day care home:* Any private residence operating a facility as defined in G.L. c. 28A, s. 9.

*Farm stand, nonexempt:* Facility for the sale of produce, wine and dairy products on property not exempted by G.L. c. 40A, s. 3.

*FCC:* The Federal Communications Commission.

*Funeral home:* Facility for the conducting of funerals and related activities such as embalming.

*Garage, private:* An enclosed space for the parking or temporary storage of one (1) or more automobiles, except that one (1) space may be used for the automobile of a nonresident of the premises.

*General service establishment:* An establishment providing repairs of small appliances and electronic equipment; \*\*\*

*Guyed tower:* A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

*Ground structure:* A wireless communications structure anchored to the ground.

*Height:* The distance measured from the ground level or roof level, whichever is the base of the tower, to the highest point on the structure.

*Historic carriage house:* An accessory or outbuilding, originally built to house carriages, horses, or for use as a barn, that has been in existence since 1900 at its present location.

*Home occupation:* An occupations, business, trade, service or profession which is incidental to and conducted in a dwelling unit or in a building or other structure accessory thereto, by a resident thereof.

*Hospital:* A building in which physical and mental ailments of human beings are treated, including convalescent care, as differentiated from clinics.

*Hotel, motel or inn:* A building containing rooms rented or hired out, or designed to be rented or hired out, for sleeping purposes by guests. A general kitchen, dining room, drugstore or newsstand, intended primarily for serving the building's occupants and only incidentally the public, may be provided within the building or in an accessory building.

*Lattice tower:* A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

*Licensed carrier:* A company authorized by the FCC to construct and operate a commercial mobile radio service system.

*Light manufacturing:* Fabrication, assembly, processing, finishing work or packaging.

*Lot:* A parcel of land occupied or designed to be occupied by a principal building and the accessory buildings or uses customarily incident to the principal building, including such yards and other open spaces as are arranged and designed to be used with such buildings. Such lot shall have frontage on an improved public street and may consist of a single lot of record, a portion of a lot of record, or a combination of such lots or portions of lots of record, provided that such lot is used for only one (1) principal use.

*Lot, corner:* A lot which has an interior angle of less than one hundred thirty-five (135) degrees at the intersection of two (2) streets. A lot abutting a curved street or streets shall be considered a corner lot if straight lines tangent to the foremost points of the side lot lines intersect at an interior angle of less than one hundred thirty-five (135) degrees.

Lot coverage: \*\*\*

*Lot of record:* A lot which is part of a subdivision recorded in the registry of deeds or the land court or a lot or parcel described by metes and bounds, the description of which has been so recorded.

*Lot, through:* A lot other than a corner lot with frontage on more than one (1) street.

Major Commercial Development: \*\*\*

*Major recreational equipment:* Campers, trailers, recreational vehicles, boats or trailers and the like.

*Manufacturing:* A use engaged in the basic processing and manufacturing of materials, or the manufacture from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products. The term "manufacturing" shall not be construed to include any of the following: acid manufacture; cement, lime, gypsum or plaster of paris manufacture; production of chlorine or similar noxious gases; distillation of bones; drop-forge industries manufacturing forging with power hammers; manufacture or storage of explosives in bulk quantities; fertilizer manufacture; garbage, offal, or dead animal reduction or dumping; glue manufacture; hair manufacture; petroleum refining; processing of sauerkraut, vinegar or yeast; rendering or refining of fats or oils; smelting of tin, copper, zinc or iron ore, including blast furnace or blooming mill; stockyard or feeding pen; slaughter of animals, not including the killing of fowl.

*Marina:* A waterfront area having a dock or mooring facilities for boats for rental purposes; fuel and oil for boats only may be sold on the premises. Shore facilities similar to motels may occupy contiguous land areas.

*Monopole:* A type of mount that's self-supporting with a single shaft of steel or concrete and a platform (or racks) for panel antennas arrayed at the top.

*Mount:* The structure or surface upon which antennas are mounted, including the following four (4) types of mounts: roof-mounted, side mounted (side of a building), ground-mounted, structure mounted (structure other than a building).

*Motor vehicle body repair:* An establishment, garage or work area enclosed within a building where repairs are made or caused to be made to motor vehicle bodies, including fenders, bumpers and similar components of motor vehicle bodies, but does not include the storage vehicles for the cannibalization of parts.

*Motor vehicle general repairs:* Premises for the servicing and repair of autos, but not to include fuel sales.

*Nonresidential structure:* Such structures as buildings, garages, steeples, and water towers, but does not include houses or apartments.

*Open air motion picture theater:* An open air (covered or uncovered with no sidewalls) parking area for vehicles where motion pictures are projected onto a large uncovered screen. The projection and sound equipment shall be housed in an enclosed structure.

*Personal service establishment:* A facility providing personal services such as hair salon, barber shop, tanning beds, dry cleaning, print shop, photography studio, and the like.

*Planning board:* The planning board of the City of Salem as established by Chapter 41, Section 70 of the General Laws.

*Planning department:* The planning department of the City of Salem.

*Preliminary application:* An application which may be submitted by a developer prior to formal application for a development permit in order that a given parcel can be reviewed in relation to the standards of issuance for residential development contained herein.

*Radio frequency radiation (RFR):* The emissions from personal wireless service facilities.

*Repairs:* Work of a reconstruction or renewal nature on any existing part of a building or structure but excluding a structural alteration.

*Rest home:* As defined in Section 71 of Chapter 111, as amended by Chapter 285 of the Acts of 1963: A rest home is defined as any institution, however named, which is advertised, announced or maintained for the express or implied purpose of providing care, incident to old age, to three (3) or more persons over sixty (60) years of age who are ambulatory but need supervision or medical care but do not need professional nursing services.

*Restaurant:* A building, or portion thereof, containing tables and/or booths for at least two-thirds (2/3) of its legal capacity, which is designed, intended and used for the indoor sales and consumption of food prepared on the premises, except that food may be consumed outdoors in landscaped terraces, designed for dining purposes, which are adjuncts to the main indoor restaurant facility. The term "restaurant" shall not include "fast food establishments."

*Restaurant, fast-food:* An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready to consume state for consumption either within the restaurant building or off premises and usually requires ordering food at a counter.

*Retail:* A facility selling goods but not specifically listed in the Table of Use Regulations.



*Right-of-way line:* A line separating a public street or way from a lot.

*Roof structure:* A wireless communication structure mounted on a roof of a building or the top of a water tower.

*Security barrier:* A locked, impenetrable wall, fence or berm that completely conceals an area from unauthorized entry or trespass.

*Separation:* The distance between one (1) carrier's array of antennas and another carrier's array.

*Sign:* Any device designed to inform or attract the attention of persons not on the premises on which such device is located, whether such device is a separate structure or object or attached to or painted on another structure or object.

*Special permit use:* A use which would not be appropriate generally or without restriction throughout the district but which, if controlled in a neighborhood, would promote the public health, safety, convenience, morals and welfare of the city's inhabitants.

*Story:* That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between any floor and the ceiling above it.

*Story, half:* A story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story.

*Street:* A public or private way which affords the principal means of access to abutting properties.

*Structure:* Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

*Substantial improvement:* Within a Wetlands or Flood Hazard District, substantial improvement means any repair, reconstruction or improvement of a structure; the cost of which equals or exceeds fifty (50) percent of the actual market value of the structure either (a) before the improvement is started or, (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration, restoration or rehabilitation (but not expansion) of a structure listed on the National Register of Historic Places or State Inventory of Historic Places. Structures erected or expanded under this subsection shall use construction materials and utility equipment that are resistant to flood damage and construction methods and practices that will minimize flood damage in accordance with the Massachusetts State Building Code.

*Swimming pool:* An artificial pool, uncovered or enclosed, used for recreational swimming and not less than twenty-four (24) inches deep nor having a surface area of less than two hundred fifty (250) square feet.

*Tourist home:* A dwelling in which overnight accommodations are provided or offered to transient guests for compensation. Such dwelling shall not have more than six (6) rooms for hire, and the rooms shall not accommodate more than two (2) persons each. No meals shall be served to guests.

*Trailer:* A vehicle used or designed to be used for living purposes. The terms "travel trailer," "pickup coach," "pickup camper," "motorized camper," "tent trailer," "mobile home," etc., or terms of similar import shall be interpreted as having the same meaning as the term "trailer."

*Transport terminal:* Terminal facilities for handling freight with or without maintenance facilities.

*Use:* The specific purpose for which land, or a building and land, is designed, arranged **intended**, or for which it is or may be occupied or maintained.

*Variance:* A relaxation of the terms of this ordinance where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this ordinance would result in unnecessary and undue hardship.

*Veterinary hospital (animal clinic):* A building whose sole use will be the medical or surgical treatment of animals, reptiles or birds. Patients may be boarded on the premises not longer than twenty (20) days. The building shall not be used for breeding purposes or as a kennel.

*Warehouse:* A building used primarily for the storage of goods and materials, for distribution, but not for sale on the premises.

*Waterfront boat yard:* An open area where boats may be stored and/or repaired. Appurtenant structures for housing repair shops and general storage may be allowed. Painting materials may be stored and sold in the yard. No fuel or oil shall be stored or sold. The yard must have direct frontage on navigable waterways.

*Waterfront yacht club (clubhouse):* A structure housing facilities for a nonprofit club whose members are primarily interested in recreational yachting activities. The clubhouse shall occupy land directly fronting on the waterfront. The structure may have general recreational facilities, toilet rooms, kitchen, dining room and general storage rooms. There shall be no bedrooms or sleeping accommodations in the building. Fuel and oil may be sold from dockside facilities, for use on boats only.

*Way:* A street or alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

*Wireless communication building (WCB):* Any building or shelter used to house equipment used primarily for the installation and operation of equipment for generating and detecting electromagnetic radiation and is an accessory to a wireless communication structure.

*Wireless communication device (WCD):* Antenna, appurtenance, wiring, or equipment used in connection with the reception or transmission of electromagnetic radiation which is attached to a structure.

*Wireless communication facility (WCF):* Shall be used as a general term to include wireless communication building, wireless communication device, and wireless communication structure.

*Wireless communication structure (WCS):* Shall mean a monopole intended to support equipment used for the transmission and reception of electromagnetic radiation, including antennas, wiring or other devices attached thereto.

*Yard:* An open space unoccupied and unobstructed by any structure or portion of a structure from the ground upward, provided, however, that fences and walls may be permitted in any yard subject to height limitations as indicated herein.

*Yard, front:* An open unoccupied space on the same lot with the principal building between the front line of the building and the right-of-way line and extending the full width of the lot.

*Yard, rear:* An open unoccupied space on the same lot with the principal building between the rear line of the building and the rear line of the lot and extending the full width of the lot.

*Yard, side:* An open unoccupied space on the same lot with the principal building and extending from the front yard to the rear yard.